

# **TREASURER'S GUIDE TO THE MUNICIPAL TAX SALES ACT, 1984**



Ontario

**MINISTRY OF MUNICIPAL AFFAIRS**

**FEBRUARY, 1986**

Honourable Bernard Grandmaître  
Minister

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Deputy Minister

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## **To The Treasurer:**

This Guide has been developed for municipal treasurers who make use of the provisions of the Municipal Tax Sales Act, 1984. As with most new legislation often there are questions that arise. It is hoped that the comprehensive review provided in the Guide will help to answer many of those questions.

Since the publication is intended only as a guide, it should be used in conjunction with the legislation and in consultation with each municipality's own solicitor.

Bernard Grandmaître  
Minister

Glenn R. Thompson  
Deputy Minister

## To the Legislature

This bill is introduced for municipal purposes and is not in the interest of the people of the State. As with most other legislation which has been introduced in the past, it is a bill for the purpose of raising revenue for the State. It is a bill for the purpose of raising revenue for the State. It is a bill for the purpose of raising revenue for the State.

Since the bill is introduced for the purpose of raising revenue for the State, it is a bill for the purpose of raising revenue for the State. It is a bill for the purpose of raising revenue for the State. It is a bill for the purpose of raising revenue for the State.

Very respectfully,  
John D. Thompson  
Governor

John D. Thompson  
Governor



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## Chapter 1

### INTRODUCTION

The Municipal Tax Sales Act, 1984 provides for a means of collecting real property tax arrears. It should normally be considered as a means of **last resort** in the municipality or board's collection procedures. A municipality or board faced with a situation where all other means of collection have failed may use this Act to attempt collection of the outstanding arrears. The Act provides municipalities and certain boards of education with the authority to sell land for the arrears of taxes.

The procedure contained in the Act replaces the two previous systems that were available for the sale of property for arrears of real property taxes. The procedures contained in the Municipal Act and in the Municipal Affairs Act are repealed. As a result, the tax registration and tax sale provisions are replaced by a new uniform procedure that municipalities and certain boards of education in Ontario may use.

The Act received Royal Assent on November 27, 1984. Sections 2 to 16 and 19 to 23 took effect on January 1, 1985. The Act provides a transition period for those properties that were registered under the Municipal Affairs Act or which were the subject of a certificate under section 433 of the Municipal Act issued prior to January 1, 1985. In those instances the proceedings continue under the appropriate Act. Should, for some reason, a vacating certificate be issued on a tax-registered property after January 1, 1985 then the municipality or board is required to proceed under the Municipal Tax Sales Act, 1984, if it wishes to continue with this method of collection.

### **TREASURER'S RESPONSIBILITY**

The Act designates the municipal treasurer as the official having responsibility for the administration of the procedures under the Act.

For those school boards whose collectors have the same powers under the Education Act as a municipal treasurer to collect rates levied in

unorganized areas, the collectors are empowered to use the procedures in the Act.

Where the county or other upper-tier municipality enters into an agreement under section 17 of the Act with a local municipality, the upper-tier treasurer takes the responsibility for the administration of the Act as well as the collection of all tax arrears.

Section 16(2) provides that the treasurer may delegate in writing his or her duties under the Act to another officer or employee of the municipality.

## **PRINCIPAL FEATURES OF THE ACT**

### **No Vesting**

There is no vesting of the property in the municipality or board's name upon registration of a tax arrears certificate. This differs from the tax registration procedure that existed previously in the Municipal Affairs Act. Since there is no vesting in the municipality or board, unless the municipality or board makes a successful purchase of the property or registers a notice of vesting if there is no successful purchaser at the sale, there will usually be no requirement for the municipality or board to take an insurance policy on its interest in the property.

### **Tax Arrears Certificate**

The tax sales process is initiated by the registration of a tax arrears certificate in the appropriate land registry office. All time periods start on the date of the registration. The certificate also serves notice that a sale will take place after one year has expired should the cancellation price remain unpaid. For example, if a tax arrears certificate was registered on January 1, 1986, a sale would be held after December 31, 1986.

### **Two Notices**

There is a requirement that the treasurer must send at least one or possibly two notices to all those persons who are entitled to receive a

notice. The first notice must be sent within 60 days of the registration of the tax arrears certificate. A final notice, should the cancellation price remain unpaid 280 days after registration of the tax arrears certificate, must be sent within 30 days of the expiry of the 280-day period.

### **Boards of Education**

Any reference to municipalities throughout this Guide will apply equally to any board of education whose officer or collector, under the Education Act, has the same powers and duties of a treasurer and where the board has the powers and duties of a municipality. Such officers and boards have all of the powers granted under the Municipal Tax Sales Act, 1984.

### **Extension Agreements**

Municipal councils are empowered to enter into agreements to extend the period of time in which the payment of arrears must be made. Council may enter into such agreements only with the owner of the land or in the case where the home is a matrimonial home, the spouse of the owner of the land.

### **Required Sale**

The Act sets out that, should the cancellation price not be paid within one year following the registration of the tax arrears certificate, the municipality or board must advertise the land for public sale.

### **Method of Sale**

A sale of land may be either by public auction or public tender.

### **Distribution of Sale Proceeds**

Once the municipality has been paid the cancellation price, any remaining amounts from the sale proceeds must be distributed among those people who have an interest in the land and the former owner by application to the District Court.

### **Delegation of Authority**

Provision is made in the Act to allow the treasurer to delegate his or her authority to another officer or employee of the municipality. If a new

treasurer is appointed a new delegation should be made. The actual wording of the delegation might, for example, be as follows, "I hereby delegate to the person who from time to time occupies the position of \_\_\_\_\_, any power or duty granted to or vested in me, as treasurer, under the Municipal Tax Sales Act, 1984".

Throughout the Guide reference is made to the treasurer of the municipality or board as the authorized officer. If another employee has been designated to carry out the treasurer's duties under the Act, any reference to the treasurer applies equally to the designated employee.

### **Prescribed Forms**

Where "N/A" appears on any of the prescribed forms it means that the box in question is not applicable and no information should be entered into the box.







## Chapter 2

### GENERAL OVERVIEW

#### PROCEDURAL SUMMARY

The Act provides for three courses of action that might occur in the procedure. Each of these potential courses of action is described in the context of the flow charts set out in this chapter. The charts on the following pages are simplified versions of some of the requirements or steps that would occur during the course of each procedure. They are provided for the purposes of summarizing the procedures only.

#### WHERE THE CANCELLATION PRICE IS PAID

Any person may pay the full cancellation price to the municipality at any time prior to the expiry of the one-year redemption period. Should this occur, the potential sale of the land is avoided. A person other than the owner or spouse of the owner of the land, who pays the cancellation price and who was entitled to a notice receives a lien on the land in the amount of the cancellation price.

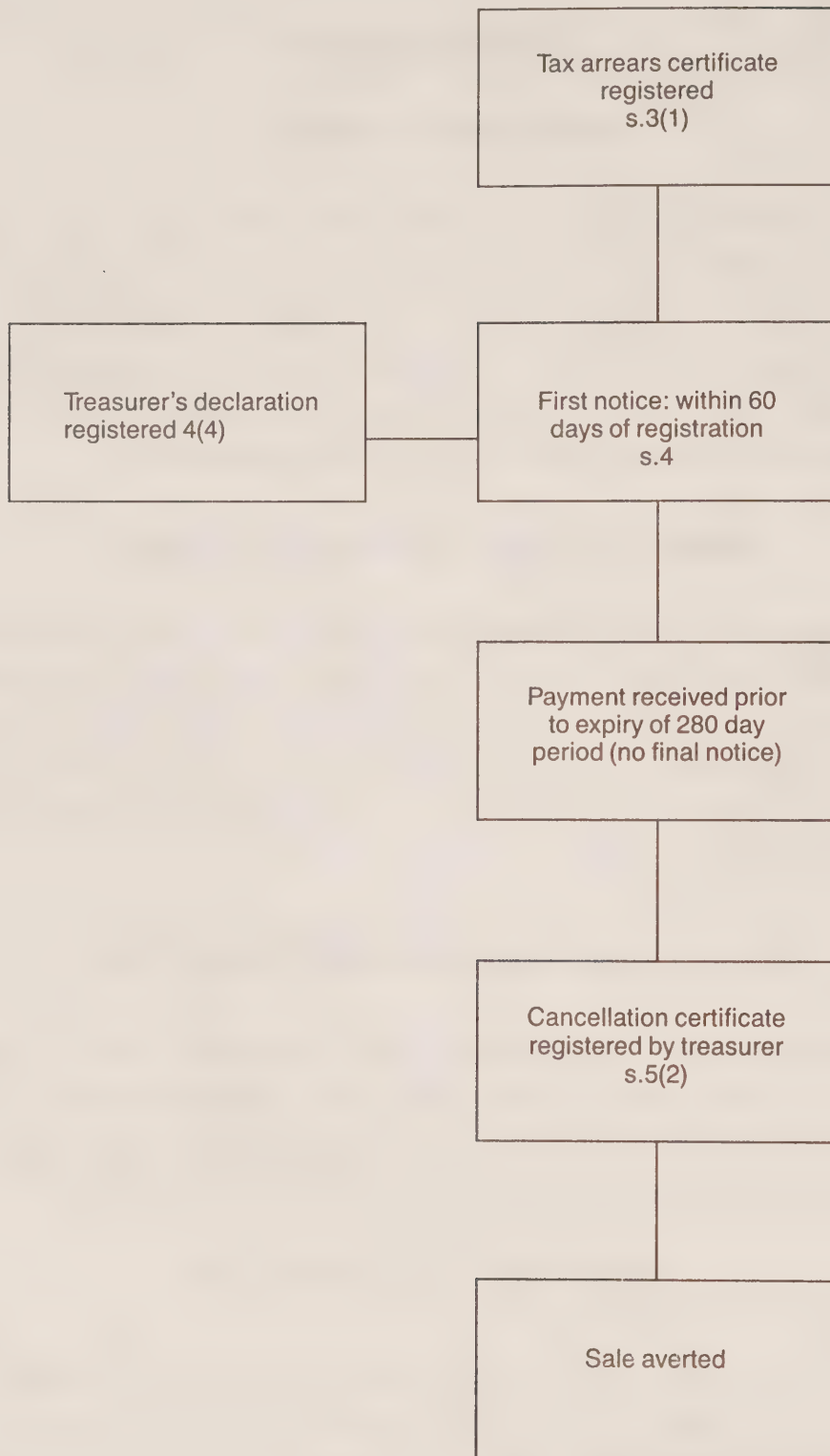
#### WHERE AN EXTENSION AGREEMENT IS GRANTED

Extension agreements may be entered into by the council with the owner of the land or the spouse of the owner of the land (where the home is a matrimonial home), at any time prior to the expiry of the one-year redemption period. The agreement must be authorized by by-law.

#### WHERE A SALE OF LAND OCCURS

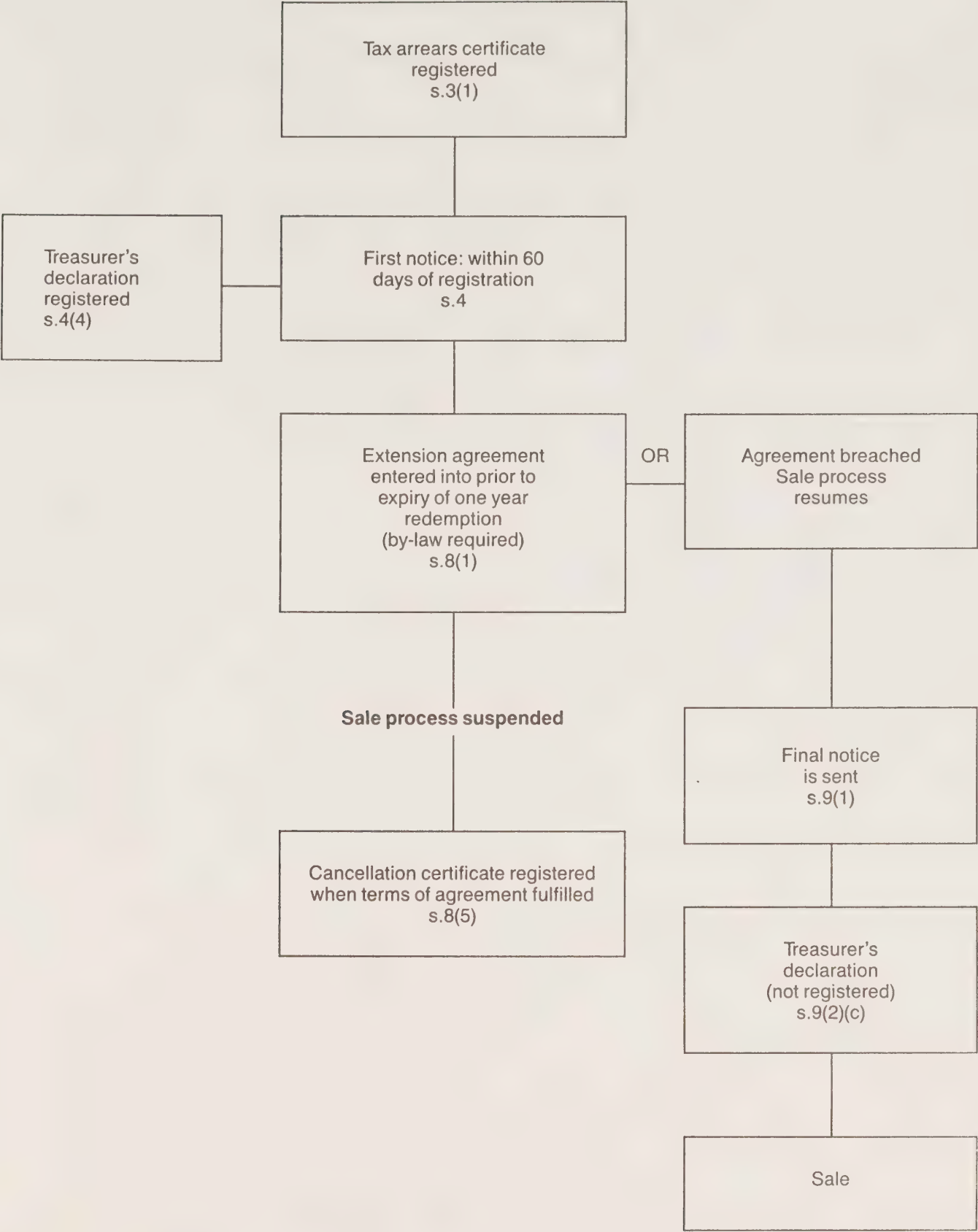
Should the cancellation price remain unpaid, or if no extension agreement exists on the expiry of the redemption period, then the land will be advertised for sale by the treasurer. If there is a successful purchaser, the title to the land is transferred to the purchaser. If there is no successful purchaser, the title will be transferred to the municipality upon registration of the notice of vesting.

## Tax Sales Procedure Where the Cancellation Price is Paid

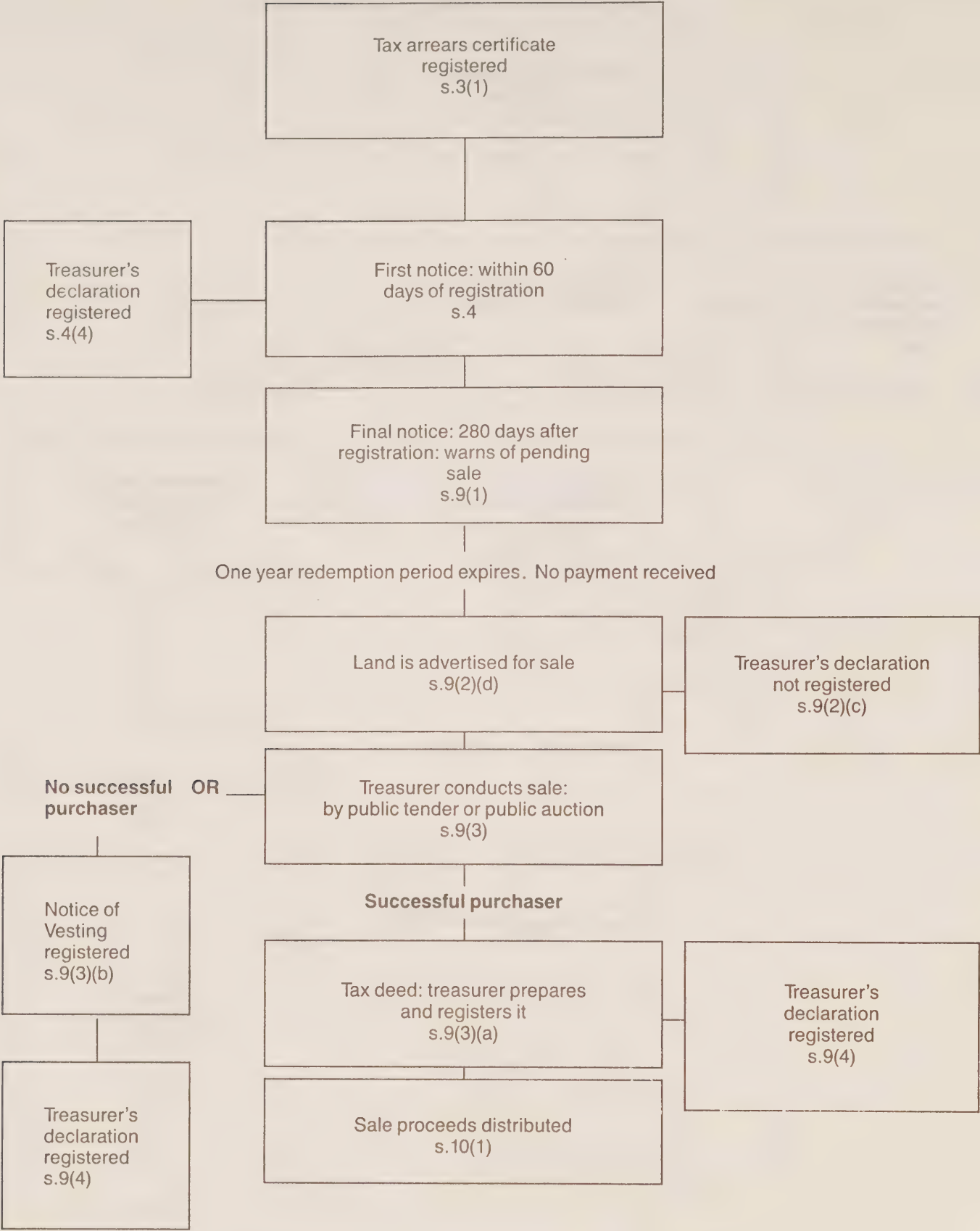


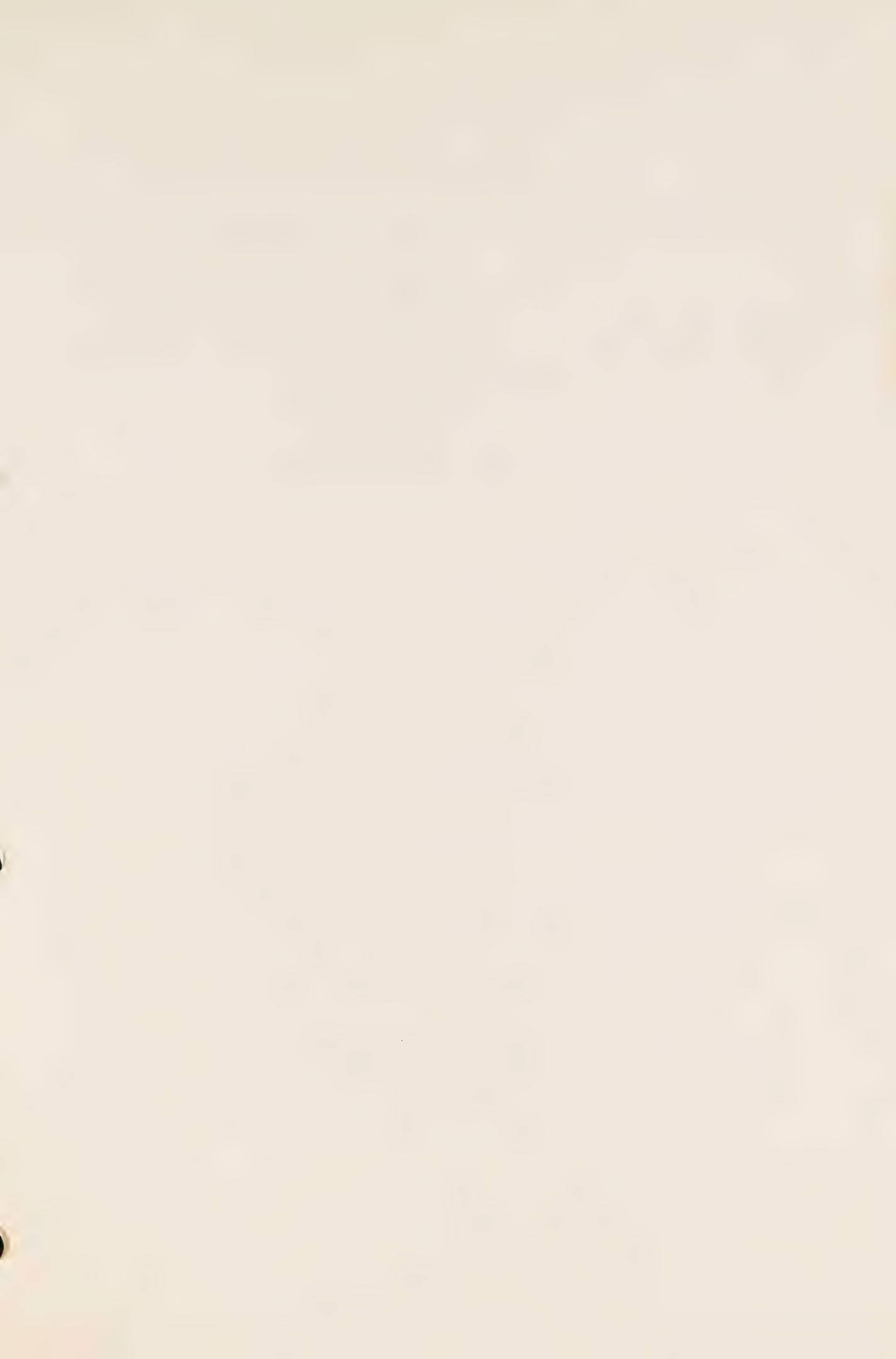


**Tax Sales Procedure  
Where an Extension Agreement is Granted**



Tax Sales Procedure  
Where a Sale of Property Occurs







## Chapter 3

### DEFINITIONS

Some of the words and phrases set out below are used throughout the Act.

#### **1. Assessed tenants in occupation of the land**

Assessed tenants in occupation of the land are those persons whose names appear on the last returned assessment roll, or those appearing by the records of the land registry office as assessed tenants. The treasurer would examine the roll and records of the land registry office to determine if there are such tenants. Such a person would be considered an interested party for the purpose of notification under the Act.

#### **2. Cancellation price: s.1(1)(a)**

The definition of cancellation price explains how the amount of money owing to the municipality is determined. This amount includes and can only contain the following items;

- all tax arrears owing,
- all current real property taxes owing under the Municipal Act, Education Act, and the Ontario Unconditional Grants Act as well as any amounts owed under the Local Improvement Act, the Drainage Act, Tile Drainage Act and the Shoreline Property Assistance Act, as well as any other rates "deemed" to be taxes under any general or any special acts such as amounts under subsection 7(5) of the Housing Development Act,
- all penalties and interest owing on real property taxes,
- all reasonable costs incurred by the municipality after the treasurer becomes entitled to register a tax arrears certificate under section 3, in proceeding or in contemplation of proceeding under this Act including,

- (i) all legal fees and disbursements associated with the procedure,
- (ii) all costs of preparing and registering extension agreements,
- (iii) the costs of preparing a survey where a survey is required to register any document,
- (iv) a reasonable allowance for costs that may be incurred subsequent to advertising.

The cost of undertaking a title search prior to registration can be recovered after registration as part of the cancellation price, on the condition that the land was eligible for registration at the time the search was undertaken.

If a municipality has passed a by-law under subsection 386(1) of the Municipal Act, which provides that where any installment is late the subsequent installments become due, the municipality may include the subsequent installments in the cancellation price.

### **3. Adverse possession**

Title acquired by adverse possession contemplates the situation where a person receives actual title to land because the person and not the owner has been in actual possession of the land. If uninterrupted possession continues for 10 consecutive years, the effect at the end of the 10 years is that the title to the land by the owner is extinguished. Under the Municipal Tax Sales Act, 1984, if an abutting owner has any interest or acquires title to the land this interest is protected under a tax deed or notice of vesting.

Adverse possession applies only to land in the land registry system and not to land under the land titles system.

### **4. Improved land: s.1(1)(c)**

Improved land is land which is liable to be separately assessed, and which



has a building on it. Land in actual agricultural use is considered improved, whether or not it has any buildings on it.

**5. Vacant land: s.1(1)(m)**

Vacant land is land with no buildings on it which is separately assessed but does not include any improved land.

**6. Real property taxes: s.1(1)(h)**

These are taxes and amounts owing as defined under the Act. Refer to the definition of cancellation price on page 9 for the definition of real property taxes.

**7. Successful purchaser: s.18(2)**

A successful purchaser is a person whose bid or tender is the highest offered and which is equal to or greater than the cancellation price. The purchaser, as a further condition, must pay the sale price and the land transfer tax with respect to the land and any accumulated real property taxes and interest charges before becoming the successful purchaser.

**8. Tax arrears: s.1(1)(j)**

These are real property taxes placed on or added to the collector's roll that remain unpaid on January 1 in the year following that in which they were placed on or added to the roll. For example, taxes levied on January 1, 1985, become arrears if any portion is outstanding on January 1, 1986.

**9. Redemption Year**

Although not specifically defined in the Act, this term will be used to describe the year for payment of the cancellation price. For example, if a tax arrears certificate was registered on January 1, 1985, the redemption year would expire after December 31, 1985.







GETTING STARTED

It will be very important to clearly establish office procedures when using the tax sales process. Each property registered under the Act should be organized in its own file and the duties of every official involved should be expressly established.

**IDENTIFICATION OF REGISTERABLE PROPERTIES**

The treasurer should identify those properties where registration of a tax arrears certificate may be required. In order to determine what properties may be registered the treasurer should:

- note those properties that have any part of the tax arrears owing for the prescribed time periods, then,
- determine whether land is vacant or improved.

**Eligibility Criteria**

Two different classifications of land exist for the purposes of the Act: vacant land and improved land. The treasurer may, in the case of vacant land, begin registration on January 1 in the second year following that in which the real property taxes become owing (s.3(1)(b)). For example, 1984 taxes are eligible to be registered on January 1, 1986.

The treasurer may undertake registration for improved land on January 1 in the third year following that in which the real property taxes become owing (s.3(1)(a)). 1984 taxes are eligible to be registered on January 1, 1987.

Should the properties meet the above criteria, they are eligible to be registered. Where the treasurer is not sure whether the land is vacant or improved the treasurer should assume it is improved and wait the additional year before registering the tax arrears certificate.

## **COUNCIL DIRECTION**

### **s.3(1)**

The treasurer's authority to proceed with a registration under the Act may be subject to the direction of the council. Subsection 3(1) states that the treasurer may proceed to register a property unless the council directs otherwise.

Should the council offer direction to the treasurer, the treasurer would be required to follow it. Most treasurers, as a matter of policy, may want to discuss with council any direction or input it may desire. There are a number of options available to the treasurer:

- He or she can take each individual property to council with a request for council's decision.
- He or she may want to prepare a list of potential registerable properties for the coming year and request the direction of council on all of the properties.
- He or she might request of council that the treasurer be given the discretion to proceed with registration without having to go to the council unless council specifically directs the treasurer to take a particular course of action with respect to a particular property.

It may be advisable to have council endorse, by resolution or by-law, the manner in which it would like the treasurer to proceed.

## **WHAT RATES ARE COLLECTABLE UNDER THE ACT?**

The Act is specific about what constitutes tax arrears and hence what is collectable through this procedure.

Section 1(1)(h) defines real property taxes. The definition also includes those amounts that are specifically set out in any other enabling pieces



of legislation as "deemed to be taxes". Only these amounts can be collected under this procedure. The municipality or board's reasonable costs associated with proceeding under the Act as well as penalties and interest are also collectable.

## WHAT DOES "DEEMED TO BE TAXES" MEAN?

s.1(1)(h)

Unless an amount has been specifically identified in the statutes as "deemed to be taxes", it is not be considered to be real property taxes collectable under this procedure. Such is the case with work preformed for weed-cutting or Ontario Home Renewal Program loans. In these instances the charges are not considered to be taxes and therefore cannot be collected under this Act.

Although hydro arrears must not be included in the calculation of the cancellation price, the treasurer may still add them to the collector's roll. They may be added even if a tax arrears certificate is registered on title against a property.

The treasurer may wish to consult with the municipal solicitor if he or she is uncertain as to amounts that can be included in a tax arrears certificate.

Should a municipality wish to attempt collection of these other amounts, it may do so through other methods, some of which are outlined below:

- The municipality may seize rents under sections 371 and 372 of the Municipal Act. A municipality may direct a tenant(s) to forward his or her rental cheques to the municipality to be credited against the amount of taxes and other costs owed by the owner of the property.
- The municipality may use a bailiff or may directly use distress proceedings, as authorized under section 387 of the Municipal

Act to enforce collection. The bailiff or municipality may do this by seizing those goods and chattels eligible for seizure.

- The municipality may institute civil actions permitted through the use of sections 369 and 370 of the Municipal Act. As a corporation, it may make use of the collection powers generally available through the courts. The municipality may apply for a judgement from the Small Claims Court, the District Court, or the Supreme Court, depending upon the amounts involved. After having been awarded a judgement, it may enforce it by issuing instructions to the sheriff or the municipality's own collection officers (bailiff, et cetera). Such executions may be enforced against personal property, subject to certain limitations, anywhere in Ontario.

## SEARCHING THE TITLE

### Why Do a Search?

Section 4 of the Act requires the treasurer to notify every person who has an interest in the land that the land is subject to a tax arrears certificate. Those persons as well as any other person are then given the opportunity to pay the cancellation price to the municipality or board.

### When Should You Search?

The treasurer has some options as to when the search should be completed. The treasurer is bound however, by subsection 4(1) to send the notices within 60 days of the registration of the tax arrears certificate. This time limit must be followed in order to keep the proceedings from being subject to challenge.

### Option 1 - Pre-registration Search and Subsequent Subsearch

The treasurer can have the search done prior to registration of the tax arrears certificate. In this case, it must be followed by a subsearch once

the registration occurs, because the cut-off time is the time of closing of the land registry office on the date of registration of the tax arrears certificate. The Act requires that where there is a corporation as an interested party, a separate notice must be sent to the Public Trustee in Toronto informing him of the registration. It may be to the municipality's advantage to send a letter to the Public Trustee before registration of the certificate.

The reason for writing prior to registration is that, should the municipality not know that the land and assets have been forfeited to the Crown by virtue of the dissolution of the corporation, and it registers a tax arrears certificate, then the certificate is of no effect. The net result of this option is to avoid undertaking the time and the cost of registering a certificate that will have to be cancelled.

Subsection 3(4) of the Act does permit the tax sales procedure to continue if a dissolution occurs after the tax arrears certificate is registered. Consequently, if after the search is undertaken and the municipality finds that it is able to proceed with the registration, the treasurer will have to ensure that a subsearch is completed, to the closing time of the appropriate land registry office, as well as the sheriff's office on the day of registration. This will ensure that all those entitled to a notice will be identified.

#### Option 2 - Searching after Registration

Should this option be chosen the treasurer would have the search done after the certificate is registered on title. Again subsection 4(1), paragraphs 3 and 4, require that the search must cover the entire day upon which the certificate was registered. The treasurer must be sure that the search covers the entire day. As a result no subsearch is required if this option is used by the treasurer.

## FOR WHOM AND WHERE IS THE SEARCH DONE?

### s.4(1)

Subsection 4(1) sets out for whom and where the search must take place. The subsection specifies that every individual and every corporation that has an interest in the land must receive notice of the registration. In order to determine who is an interested party the treasurer must search the following places:

- the last returned assessment roll for the assessed owner,
- the last returned assessment roll for any assessed tenants in occupation of the land,
- if the land is registered under the Land Titles Act, for every person who in the register of title is shown to have a registered interest on title,
- if the land is registered under the Land Titles Act, for every person appearing on the index of executions in the sheriff's office. An example would be a person with a mechanic's lien,
- if the land is registered under the Registry Act, for every person who in the abstract index is shown to have a registered interest in the land on the title; and
- if the land is registered under the Registry Act, for every person appearing on the index of writs received for execution by the sheriff's office of the county or district in which the land is found.

In addition to these persons, subsection 4(2) requires that where a notice is sent to the assessed owner or to an assessed tenant in occupation of the land, a notice must also be sent to the spouse of such persons.

## TYPES OF INTERESTS

Interest in the land can be many things. It could be among other things, a mortgage, registered lease or a mechanic's lien. When doing a search the important consideration is that it be done thoroughly and accurately to ensure that all those parties who would be entitled to a notice under the Act are picked up in the search.









## Chapter 5

### INITIATING THE PROCEDURE / REGISTERING THE TAX ARREARS CERTIFICATE

#### WHEN DO YOU REGISTER?

s.3(1)

Once the eligibility criteria have been met (i.e., the taxes are two or three years in arrears) and unless council has directed otherwise, the treasurer can proceed with the registration of the tax arrears certificate.

#### WHERE DO YOU REGISTER?

If the lands in question are registered under the Land Titles Act, registration of the certificate will take place in the appropriate land titles office. If they are registered under the Registry Act, the tax arrears certificate will be registered in the appropriate registry office.

#### TIME PERIODS COMMENCED

With the registration of the tax arrears certificate the formal part of the procedure is commenced. The day that the registration occurs is the starting point for all of the time periods that form part of the procedure.

#### EFFECT OF REGISTRATION

The registration of a certificate has a number of implications for the municipality, the owner and the interested parties. It represents generally on title that the municipality has served notice that there are tax arrears outstanding against the property and it intends to sell the land should the arrears continue to go unpaid. Anyone searching the title should be made aware of the position that the land has been placed in. The certificate sets out the amount owing to the municipality or board, noting, however, that this amount will increase with time.

## ESCHEATED LAND

### s.3(3)

Subsection 3(3) addresses lands that have been vested in the Crown by virtue of a forfeiture or an escheatment under the Business Corporations Act, 1982 or the Corporations Act or any of their predecessors. In instances where the forfeiture or escheatment occurs prior to the registration of the tax arrears certificate, the land is protected. The certificate is therefore of no effect and cannot be registered. If it has been registered it must be vacated by registering a tax arrears cancellation certificate.

Where the vesting in the Crown occurs subsequent to a tax arrears certificate being registered, the municipality or board may continue with the procedure. The land may be sold if payment is not received within one year from the date that the tax arrears certificate was registered.

In order to determine the status of property where a corporation is the owner or an interested party, the treasurer must send a notice to the Public Trustee. Detailed discussions of the notice and the involvement of the Public Trustee will be dealt with in Chapter 6.

## CLASSES OF REGISTERABLE LANDS

### s.3(4)

Subsection 3(4) specifically sets out that a certificate for vacant lands cannot include any improved land or embrace lots according to more than one registered plan. The treasurer may place any number of vacant lots on one certificate if those lots are all part of the same plan. An accurate record of each lot must be maintained.

Where improved land is to be registered the certificate cannot contain more than one improved property or any vacant land that is a separate parcel.



Form 1 — Municipal Tax Sales Act, 1984  
**Document General**  
Form 4 — Land Registration Reform Act, 1984

D

FOR OFFICE USE ONLY		(1) Registry <input type="checkbox"/> Land Titles <input type="checkbox"/>	(2) Page 1 of _____ pages
		(3) Property Identifier(s) Block _____ Property _____ Additional: See Schedule <input type="checkbox"/>	
		(4) Nature of Document <b>Tax Arrears Certificate</b> Form 1 — <i>Municipal Tax Sales Act, 1984</i>	
		(5) Consideration _____ N/A _____ Dollars \$ _____ N/A _____	
		(6) Description	
	New Property Identifiers	Additional: See Schedule <input type="checkbox"/>	
	Executions	Additional: See Schedule <input type="checkbox"/>	

## COMPLETING THE TAX ARREARS CERTIFICATE

### Prescribed Form 1

A discussion of some of the essential information required to be completed in the form is set out below. Wherever "N/A" is found that box is not applicable and need not be completed.

#### Step 1 - Box 1

Mark with an "X" in the appropriate box to indicate if the land is registered in the land titles or the registry system.

#### Step 2 - Box 2

Enter the total number of pages that make up the certificate. If a one-page schedule for a legal description of the land is attached, the total number of pages will be two.

#### Step 3 - Box 3

If property identifiers have been assigned by the land registry office to the land enter them here. Only a maximum of two identifiers should be entered here. If there are more than two, mark the "Additional See Schedule" box with an "X" and attach the schedule. If none have been assigned, leave the box blank.

#### Step 4 - Box 6

Enter a legal description of the land in this box. Each such description should begin with the parcel and section (in land titles) the part, lot or unit on the plan or concession lot. Also include the status of the municipality (township, city, etc.). If the property is a condominium property enter a reference to the land registry office in which the plan is registered.

(7) This Document Contains:	(a) Redescription New Easement Plan/Sketch <input type="checkbox"/>	(b) Schedule for: Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input type="checkbox"/>
-----------------------------	---	---

**(8) This Document provides as follows:**  
The person signing in Box 10 hereby certifies that all or part of tax arrears in the amount of \_\_\_\_\_ were owing on the 31st day of December, 19 \_\_\_\_\_ and at least part of such amount plus any additional real property taxes and costs is still owing to the municipality or board named in Box 10 and that the land described in this document will be sold by public sale if the cancellation price is not paid within one year following the date of registration of this document.

Notes:

- A. This time period for paying the cancellation price may be extended if the municipality or board authorizes an extension agreement with the owner of the land before the expiry of the one-year period.
- B. The cancellation price will be calculated as of the date that the amount of the tax arrears are paid to the municipality or board and will be higher than the amount set out above.
- C. If there is no successful purchaser at the public sale, the land, upon registration of a notice of vesting, will vest in the municipality or board.
- D. Any inquires relating to this matter may be directed to the municipality or board named in Box 10 at the address shown in Box 11.

Continued on Schedule ☐

Preambles such as, "All and Singular that certain..." are not required. Should a lengthy metes and bounds description be involved, a schedule may be necessary. If one is used, enter "SEE SCHEDULE."

For example:

REGISTRY:       Part of Lots 111 and 112, Registered Plan 1001,  
                    North York, City of North York,  
                    SEE SCHEDULE

LAND TITLES:   Parcel 99-2 Section 40M-542 Being  
                    Lot 2 Plan 40M-542, Township of River  
                    District of Thunder Bay

#### Step 5 - Box 7b

If a schedule is required for a description, mark the appropriate box with an "X".

#### Step 6 - Box 8

Box 8 describes the effect of the tax arrears certificate. The treasurer must enter the amount of the tax arrears owing on the land as of December 31 of the preceding year. Enter the correct year in the space provided.

The information contained in notes a to d informs the interested parties and anyone else who may be reviewing the title to the property that:

- a. the municipality or board can enter into an agreement with the owner of the land (or spouse of the owner, if the property is a matrimonial home) to extend the time period for the payment of the cancellation price;
- b. the cancellation price as shown on the form will be higher when someone comes in to pay the cancellation price. This is because the arrears as shown on the tax arrears certificate are

(9) This document relates to instruments number(s) _____ N/A _____		
(10) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y    M    D
.....	.....	.....
.....	.....	.....
Treasurer or Authorized Officer or Employee		
(11) Address for Service _____		
(12) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y    M    D
.....	N/A	.....
.....	.....	.....
.....	.....	.....
(13) Address for Service _____ N/A _____		



calculated as of December 31 of the preceding year. The amount will have increased by the time payment is made;

- c. should a sale take place and there is no successful purchaser of the property, then the municipality or board will receive title to the land upon the registration of a notice of vesting;
- d. any questions relating to the registration of the land should be directed to the treasurer or other authorized officer listed in Box 10.

Step 7 - Box 10

Enter, in capital letters, the full name of the municipal corporation or board as the "Party". The treasurer or other authorized official must sign the document in the space provided. After signing the treasurer or authorized officer will have to enter the date of signature. No corporate seal is required.

For example:

PARTY(IES)	SIGNATURES	DATE OF SIGNATURE		
THE CORPORATION OF	<i>John M. Doe</i>	Y	M	D
THE TOWNSHIP OF RIVER		85	09	26

Step 8 - Box 11

The address of the municipality or board, including the postal code, must be entered in this box. Anyone wishing to contact the municipality or board may do so at the address provided.

For example:

Box 101, 11 Centre Street, River, Ontario. M7B 1C3

(14) Municipal Address of Property	(15) Document Prepared by:	FOR OFFICE USE ONLY	Fees and Tax	
			Registration Fee	
			Total	

#### Step 9 - Box 14

If there is a municipal address assigned to the property (not the legal description), it must be shown in this box. The full municipal address should be provided in the following format: the street number, suffix if there is one, the street name, unit type, municipality and the postal code.

If no municipal address has been assigned to the land, enter "NOT ASSIGNED"

For example:

21 North Street  
River, Ontario  
M6C 1B3

#### Step 10 - Box 15

The name and address of the person who actually completed this form must be shown. If a solicitor completed the form, enter the solicitor's name and full address. The name of the solicitor's firm should also be included.

For example:

John M. Doe  
Treasurer,  
Township of River,  
Box 101  
11 Centre Street,  
River, Ontario  
M7B 1C3

OR

Bill Batch  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario  
N0P 2B3

### **Number of Copies**

The treasurer should complete at least two copies of the form: one original for registration and one for the municipal records, both with original signatures. Enter the name and full address of the person who is to receive the duplicate copy of the form. Remember to attach a self-addressed, stamped envelope if you wish the land registry office to return your duplicate by mail. Make certain the postage on the stamped return envelope is sufficient for the weight of the document to be returned.

30



## POINTS TO REMEMBER

1. When completing a tax arrears certificate be sure that at least two copies are completed, one for the registry or land titles office and one for the municipal records.
2. Be sure that the proper corporate name of the municipality or board is used on the form.
3. Include an accurate legal description of the land that will be suitable for registry or land titles office purposes.
4. The time periods for the sending of notice are calculated from the date of registration of the tax arrears certificate.
5. No vacant land can be included on a tax arrears certificate where there is also improved land.
6. More than one parcel of vacant land may be included on one tax arrears certificate if the land is all part of the same registered plan.







## Chapter 6

### NOTICES

#### REASONS FOR GIVING NOTICE

s.4

The Act requires that the treasurer give each person entitled to a formal notice, a notice of the registration of the tax arrears certificate. Without the notice only those persons who are specifically searching the title of a property would be aware of the registration of the tax arrears certificate.

It is in the municipality's interest to inform people of the registration in order to encourage the payment of the cancellation price.

#### NUMBER OF NOTICES REQUIRED

At least one notice is required to be sent or delivered to all interested parties. If the cancellation price has not been paid 280 days after the tax arrears certificate was registered, then a final notice must also be sent.

#### FIRST NOTICE

s.4(1)

The Act requires the treasurer to send or cause to be sent a first notice in the prescribed form (Form 2) to all those who are entitled to one.

#### FINAL NOTICE

s.9(1)

The Act requires the treasurer to send or cause to be sent a final notice in the prescribed form (Form 5) to the same persons that received a first notice if payment of the cancellation price is not made prior to the expiry of the 280-day period.

## WHEN MUST FIRST AND FINAL NOTICES BE SENT?

s.4(1), 9(1)

The treasurer must send or cause to be sent a notice in the prescribed form within 60 days of the registration of the tax arrears certificate.

The treasurer has 30 days after the 280-day period expires to send the final notice.

## WHO IS ENTITLED TO RECEIVE A FIRST NOTICE?

s. 4(1)

This subsection provides that the treasurer must send a first notice to the following people:

- the assessed owner appearing on the last revised assessment roll;
- the spouse of the owner of the land. If Bob Doe is married to Jane Doe, then Jane Doe must receive a separate notice;
- the assessed tenant in occupation of the land (where the land has been improved);
- the spouse of the assessed tenant in occupation of the land;
- where there is joint ownership of the property notice must be sent to the joint owners and the spouses of the joint owners;
- Any person appearing by the register of title and by the index of executions to have an interest in the land, in the case of land registered under the Land Titles Act. Every person who appears in these records as of the closing of the land registry office on the day the tax arrears certificate was registered must be sent notice;



- any person appearing by the abstract index and by the index of writs under the Registry Act received by the sheriff of the county or district in which the land is found to have an interest in the land, as of the closing of the land registry office on the day the tax arrears certificate was registered; and
- the Public Trustee must be given a notice if the owner or one of the other interested parties is a corporation. If, for example, the first mortgagee is the Bank of Nova Scotia, a notice would have to be sent to the Public Trustee as well as the bank.

### WHAT IS THE EFFECT OF A FIRST NOTICE?

#### Warning

The first notice is a formal notice to the interested parties that a tax arrears certificate, which must be attached to the first notice, has been registered on title by the municipality or board. The notice warns that should payment of the cancellation price not be made within the one-year redemption period, the municipality or board will advertise the land for public sale.

#### Encourages Payment

The notice will encourage an interested party to protect the interested party's interest in the land by paying to the municipality or board the outstanding amount of the cancellation price within the required time period.

### TREASURER'S STATUTORY DECLARATION AFTER FIRST NOTICE

s.4(4)

After the first notice has been sent by the treasurer the act requires that the treasurer shall forthwith (as soon as practically possible), make and

register a statutory declaration on the prescribed form (Form 3). The form must be filled out to identify the people who were sent the first notice and the address to which the notices were sent.

The declaration is then registered on title in the land registry office.

The declaration is the treasurer's evidence that he or she has complied with the requirements of the act in the sending of the first notices to the interested parties. This may become important if in the future the treasurer's actions are challenged.

### **EFFECT OF GIVING IMPROPER NOTICE**

Should the treasurer not provide the required notices within the prescribed time of 60 days in the case of the first notice and 30 days (after the expiry of the 280-day period) for the final notice, the procedure may be open to challenge.

If the treasurer is not sure as to whether a person or company is entitled to a notice under the Act, it may be best to send a notice. If there is any doubt, send the notice.

### **METHOD OF GIVING NOTICES**

#### **s.11**

Section 11 gives guidance on the method of providing notice. The legislation is flexible as to the manner which the treasurer may chose.

Any notice required to be sent may be given either by personal delivery, or sent by certified or registered mail.

### **WHERE SHOULD THE NOTICES BE SENT?**

#### **s.11(1)(a-e)**

Subsection 11(1)(a-e) sets out where the notices must be sent. In the case of:

- the assessed owner: to the address of the person shown on the last returned assessment roll;
- a person with a registered interest: to the person's address as shown in the land titles or registry office or where there is no address shown, to the solicitor whose name appears on the registered instrument;
- a person with an interest as shown by the index of executions under the Land Titles Act or by the index of writs received by the sheriff under the Registry Act: to the address of the person as shown or the address of his or her solicitor;
- the spouse of the assessed owner of the land: to the address of the spouse or if that address is not known, then to the address of the land;
- the Public Trustee: to 145 Queen Street West, Toronto, Ontario M5H 2N8, Telephone: (416) 362-1331.

**NOTICE TO ASSESSED TENANTS IN  
OCCUPATION OF THE LAND  
s.11(2)**

Subsection 11(2) provides that where the treasurer must send notice to an assessed tenant in occupation of the land and his or her spouse, the notice may be given to them jointly by either;

- personal delivery or,
- ordinary mail.

This provision differs substantially from the notice required to be sent to the assessed owner and the spouse of the assessed owner, in that in those cases a notice must be sent separately to the spouse and the owner.

The treasurer is not required to address the notice in the name of the assessed tenant or spouse but may address the notice to "the occupant and spouse." This should ensure that whatever tenant is occupying the premises at the time, will receive notice.

## NOTICE TO SIX OR MORE ASSESSED TENANTS IN OCCUPATION OF THE LAND

s.11(3)

Should there be six or more assessed tenants in occupation of the land the treasurer may, in lieu of sending individual notices, post up a notice in the form of a placard.

The placard must be posted in a conspicuous place on the land where it may be seen. The posting of the placard is deemed by the Act to be sufficient service of the notice.

## NOTICE TO CORPORATIONS (Public Trustee)

s.4(3)

Should a corporation be notified as an interested party subsection 4(3) requires that the treasurer send or cause to be sent a notice to the Public Trustee in Toronto.

The purpose for notifying the Public Trustee is that at common law and also under statutes such as the Corporations Act and the Business Corporations Act, 1982, any property of a corporation that is not disposed of or dealt with at the time of the corporation's dissolution becomes the property of the Crown. Where such a forfeiture or escheat occurs, the Public Trustee has responsibility for administering the property and in some cases for ensuring that the property ends up in the hands of those having a "legal or moral claim" to it.

Under the Act no tax arrears certificate can continue if it was registered after a forfeiture to the Crown took place. In order to determine if a

forfeiture has taken place prior to registration the treasurer must send a copy of the notice to the Public Trustee.

### **Procedure of the Public Trustee's Office**

When the Public Trustee's office receives a notice, it will conduct a search of the provincial and federal records to determine the status of the company concerned. If it finds no dissolutions, it will notify the treasurer that it claims no interest in the land and the treasurer can then continue with the procedure up to and including a sale if necessary.

Where the Public Trustee's office finds that a dissolution has taken place prior to the registration of a tax arrears certificate the treasurer will be notified and the treasurer will have to register a tax arrears cancellation certificate in accordance with subsection 12(3) of the Act.

### **Suggested Procedure**

On receipt of the copy of a notice from a municipality, the Public Trustee must undertake a search through the records of the Ministry of Consumer and Commercial Relations and the federal government. In order to facilitate the procedures that the Public Trustee must go through, it is recommended that treasurers ensure that the following information is always provided in the first correspondence with the Public Trustee:

1. Full Name of All Corporations: It is essential that all corporations to whom notices were sent be named and that the names be accurately recorded. If, for example, the company name is "June Jones Ltd." that is exactly what should appear in the notice or letter to the Public Trustee. Variations such as "J. Jones Ltd." or "June Jones Limited" will prevent an accurate computer search and should be avoided.
2. Nature of Corporation's Interest: It is important that the Public Trustee know what interest (e.g., owner, mortgagee, lien holder)



the corporation had in the land. The amount of any claim on the land should also be included where available.

3. Federally or Provincially Incorporated: It would help the Public Trustee to know whether the company was federally or provincially incorporated if this information is known.

These basic guidelines if followed by the treasurer, will assist the Public Trustee in completing the procedures as quickly as possible.

### NOTICE TO VETERANS' LAND ADMINISTRATION

Where a person has purchased land sold by the Director General of Veterans' Land Administration a notice should be sent to both the person and the Director General. The address is:

Veterans' Land Administration  
4900 Yonge Street, Suite 500  
Willowdale, Ontario  
M2N 6B2

### LIMITATIONS FOR NOTICE

s.4(5), 11(5)

Although the Act specifically requires the treasurer to provide notice to certain people there is a limit to which the treasurer has to go in order to find the name or address of a person entitled to a notice.

Subsection 4(5) of the Act states that a person is not entitled to notice if:

- after a reasonable search of the records of the registry, land titles and sheriff's offices, and the last returned assessment roll the treasurer does not find the person's address and the treasurer is not otherwise aware of it; or
- the person has expressly waived the right to notice, either before or after the notice should have been sent. It should be in writing and kept on record.



**Form 2**  
**Notice of Registration of**  
**Tax Arrears Certificate**  
*Municipal Tax Sales Act, 1984*  
**STEP 1**

The \_\_\_\_\_  
Name of Municipality or Board

To:

**STEP 2**

Address:

**STEP 3**

A tax arrears certificate, a copy of which is attached, was registered on the \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, against the title to the land to which the certificate applies as instrument number \_\_\_\_\_

2. If you are a person entitled under the *Municipal Tax Sales Act, 1984* to receive this notice and you pay the cancellation price, you will, if you are not the owner or the spouse of the owner of the land, have a lien on the land for the amount paid in priority over the interest of any other person to whom notice is sent under that act.
3. If, at the end of the one-year period following the date of the registration of the tax arrears certificate, the cancellation price remains unpaid and there is no subsisting extension agreement, the land will be sold by public sale.
4. You may claim entitlement to a share in the proceeds of the sale of the land by applying to the District Court within one year of the payment into court by the Treasurer of the proceeds of sale minus the cancellation price.
5. If there is no successful purchaser at the public sale, the land, upon the registration of a notice of vesting will vest in the municipality (or board).

As well, subsection 11(5) provides that nothing in the act requires the treasurer to ensure that the notices that were sent are received by the interested parties.

## COMPLETING THE FIRST NOTICE

### Prescribed Form 2

The following discussion of Form 2 sets out some of the information that should be included in first notice to the interested parties.

NOTE: This form does not have to be registered in either the land titles or registry offices. It is recommended, however, that a copy of the notices be kept on file. A copy of the tax arrears certificate must be attached to each notice that is sent.

#### Step 1

In the space enter the full corporate name of the municipality or board, in capital letters.

#### Step 2

Enter the name and address of the interested party that is being sent the notice.

#### Step 3

Enter the day, month and year on which the tax arrears certificate was registered in the land titles or registry office. Enter the instrument number that was assigned to the tax arrears certificate when it was registered. It is important to enter the correct instrument number for the information of the person receiving the notice.

STEP 4

6. *Inquiries related to the matters set out in this notice may be directed to:*

Title

Name of Municipality or Board

Address of Municipality or Board

STEP 5

STEP 6

Dated at

this

day of

19

STEP 7

Signature of Treasurer or Other Officer or Employee Authorized to Give this Notice

Title

**Note:** This document need not be registered.

#### Step 4

Paragraph 6 provides a space for the title of the person in the municipality or board who will be handling any inquiries related to the registration. Be sure to enter the name of the appropriate officer. It will serve to avoid confusion as to who the interested party should contact. Enter the name of the municipality or board in the appropriate space.

#### Step 5

Complete the correct address of the municipality or board. Interested parties who do not live in or near to the municipality will require the proper address.

#### Step 6

Fill in the place where the notice was completed. In the next space write in the day, month and year it was completed.

#### Step 7

In the space available provide the signature of the person who is authorized to give the notice. Next enter the title of the authorized officer completing the document.

**Form 2**  
**Notice of Registration of**  
**Tax Arrears Certificate**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

The \_\_\_\_\_

Name of Municipality or Board

To: \_\_\_\_\_

**STEP 2**

Address: \_\_\_\_\_

**STEP 3**

1. A tax arrears certificate, a copy of which is attached, was registered on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, against the title to the land to which the certificate applies as instrument number \_\_\_\_\_.
2. If you are a person entitled under the *Municipal Tax Sales Act, 1984* to receive this notice and you pay the cancellation price, you will, if you are not the owner or the spouse of the owner of the land, have a lien on the land for the amount paid in priority over the interest of any other person to whom notice is sent under that act.
3. If, at the end of the one-year period following the date of the registration of the tax arrears certificate, the cancellation price remains unpaid and there is no subsisting extension agreement, the land will be sold by public sale.
4. You may claim entitlement to a share in the proceeds of the sale of the land by applying to the District Court within one year of the payment into court by the Treasurer of the proceeds of sale minus the cancellation price.
5. If there is no successful purchaser at the public sale, the land, upon the registration of a notice of vesting will vest in the municipality (*or board*).

**STEP 4**

6. *Inquiries related to the matters set out in this notice may be directed to:*

Title \_\_\_\_\_

Name of Municipality or Board \_\_\_\_\_

Address of Municipality or Board \_\_\_\_\_

**STEP 5**

**STEP 6**

Dated at \_\_\_\_\_

this \_\_\_\_\_

day of \_\_\_\_\_

19 \_\_\_\_\_

**STEP 7**

Signature of Treasurer or Other Officer or Employee Authorized to Give this Notice \_\_\_\_\_

Title \_\_\_\_\_

**Note:** This document need not be registered.

Form 3 — Municipal Tax Sales Act, 1984  
**Document General**  
Form 4 — Land Registration Reform Act, 1984

**D**

(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of	pages
(3) Property Identifier(s)	Block	Property	Additional See Schedule <input type="checkbox"/>



## COMPLETING THE STATUTORY DECLARATION

### Prescribed Form 3

Subsection 4(4) of the Act requires the treasurer to make and register a statutory declaration forthwith after sending the first notice. The declaration sets out the names, addresses and nature of interest of each interested party. It is proof that the treasurer sent or caused to be sent the required notices to all those persons who were entitled to one.

The following discussion reviews the information that should be included on the statutory declaration.

#### Step 1 - Box 1

Mark with an "X" whether the land is registered in the registry or land titles system.

#### Step 2 - Box 2

In the blank space provided write in the total number of pages that make up the declaration. There will be at least two pages but should a further schedule(s) be required either for additional interested parties or for a description of the land, these pages must be included.

#### Step 3 - Box 3

If property identifiers have been assigned by the land registry office to the land, enter them in Box 3. Only a maximum of two identifiers should be entered here. If there are more than two, mark the "Additional See Schedule" box with an "X" and attach the schedule. If no identifiers are assigned, leave box 3 blank.

<div style="writing-mode: vertical-rl; transform: rotate(180deg); border: 1px solid black; padding: 2px;">FOR OFFICE USE ONLY</div> <div style="border: 1px solid black; height: 150px; margin-top: 10px;"></div> <div style="margin-top: 10px;"> New Property Identifiers <div style="float: right; text-align: right;"> Additional: See Schedule <input type="checkbox"/> </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Executions <div style="float: right; text-align: right;"> Additional: See Schedule <input type="checkbox"/> </div> </div>	<div style="border: 1px solid black; padding: 5px;"> (4) Nature of Document  <b>Statutory Declaration Regarding Notices</b>  Form 3 — <i>Municipal Tax Sales Act, 1984</i> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> (5) Consideration  <div style="display: flex; justify-content: space-between; align-items: center;"> <span>_____ N/A _____</span> <span>Dollars \$ _____ N/A _____</span> </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> (6) Description  <div style="height: 100px;"></div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> (7) This Document Contains: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> (a) Redescription New Easement Plan/Sketch <input type="checkbox"/> </div> <div style="text-align: center;"> (b) Schedule for: Description <input type="checkbox"/> </div> <div style="text-align: center;"> Additional Parties <input type="checkbox"/> </div> <div style="text-align: center;"> Other <input checked="" type="checkbox"/> </div> </div> </div>
	(8) This Document provides as follows:  <div style="padding-left: 40px;"> This document is a statutory declaration regarding the sending of notices which, under section 4 of the <i>Municipal Tax Sales Act, 1984</i>, is required to be made and registered against the title to the land which is liable to be sold for arrears of taxes. Page 2 of this document contains a list of the names of the persons to whom notices in the prescribed form were sent. Inquiries relating to this document may be directed to the municipality or board named in Box 10 at the address shown in Box 11. </div> <div style="text-align: right; margin-top: 10px;"> Continued on Schedule <input type="checkbox"/> </div>
	(9) This document relates to instrument number(s) _____

#### Step 4 - Box 6

Box 6 provides space to complete the legal description of the land in question. If a metes and bounds description is involved, a schedule may be necessary to complete the description. If a schedule is needed, enter "SEE SCHEDULE" in this box.

Preambles such as "All and Singular that certain" are not required. All descriptions should begin with the parcel and section (in land titles), the part, lot or unit on the plan or concession lot. The status of the municipality (township, city, etc.) must also be included. If a condominium property is involved, enter a reference to the land registry office in which the plan is registered. Below is an example of a description.

LAND TITLES: Parcel 99-2 Section 40M-542 Being  
Lot 2 Plan 40M-542 Township of River  
District of Thunder Bay

REGISTRY: Part of Lots 111 and 112, Registered Plan 1001,  
North York, City of North York  
SEE SCHEDULE

#### Step 5 - Box 7b

If a schedule for a description is required mark the description box with an "X". The box for a schedule for "Other" is pre-typed with an "X", since a schedule listing the interested parties forms part of the statutory declaration.

#### Step 6 - Box 9

In this box enter the instrument number that was assigned by the land registry office to the tax arrears certificate. For example, 100001.

(10) Party(ies) (Set out Status or Interest)	Signature(s)	Date of Signature
Name(s)		Y M D
.....	.....	.....
.....	.....	.....
.....	.....	.....
Treasurer or Authorized Officer or Employee		

(11) Address for Service
--------------------------

(12) Party(ies) (Set out Status or Interest)	Signature(s)	Date of Signature
Name(s)		Y M D
.....	.....	.....
.....	.....	.....
.....	.....	.....
N/A		

(13) Address for Service	N/A
--------------------------	-----

(14) Municipal Address of Property
------------------------------------

### Step 7 - Box 10

The party for the purposes of the statutory declaration is the municipal corporation or the board of education. The proper name of the person authorized to sign for the municipal corporation or board must be included. In this case the treasurer or other authorized officer will sign for the corporation or board. After signing, the treasurer or authorized officer will have to enter, in the space provided, the date of the signature.

For example:

PARTY(IES)	SIGNATURES	DATE OF SIGNATURE		
THE CORPORATION OF	<i>John M. Doe</i>	Y	M	D
THE TOWNSHIP OF RIVER		85	10	06

### Step 8 - Box 11

The treasurer must enter the full address of the municipality or board, including the postal code, in box 11. Should anyone wish to contact the municipality or board he or she may do so at this address.

### Step 9 - Box 14

If there is a municipal address for the land, it should be set out in this box. Be sure to provide the full municipal address in the following format: the street number, suffix if there is one, street name, unit type, unit number, municipality and the postal code. If no municipal address has been assigned to the property, enter "NOT ASSIGNED."

For example:

21 North Street,  
River, Ontario  
M6C 1B3  
or  
"NOT ASSIGNED"

(15) Document Prepared by:	FOR OFFICE USE ONLY	Fees and Tax	
		Registration Fee	
		Total	

Form 3 — Municipal Tax Sales Act, 1984

## Schedule

Form 5 — Land Registration Reform Act, 1984

Page 2

S

### Additional Property Identifier(s) and/or Other Information

In the matter of the title to the withinmentioned land situate in the

of \_\_\_\_\_ in the

\_\_\_\_\_ of

I, \_\_\_\_\_, \_\_\_\_\_ of the \_\_\_\_\_

Title

of \_\_\_\_\_ in the \_\_\_\_\_

of \_\_\_\_\_, do solemnly declare as follows:

In accordance with section 4 of the *Municipal Tax Sales Act, 1984* I sent notice of the registration of a tax arrears certificate relating to the land described in this document to each of the interested parties whose names and addresses are listed below on the date set forth opposite their respective names.



### Step 10 - Box 15

Box 15 provides space for entering the name and address of the person who actually completed the form. If it was the treasurer, enter the treasurer's name, title and address. If a solicitor completed the form, enter the solicitor's name and full address. The name of the solicitor's firm should be included.

For example:

John M. Doe  
Treasurer,  
Township of River,  
Box 101,  
River, Ontario  
M7B 1C3

or

Bill Batch  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario  
NOP 2B3

### Step 11 - Schedule - Page 2

In completing the declaration the treasurer must indicate the place in which the land is situated. For example "situated in the Township of River in the District of Thunder Bay." The treasurer enters his or her name, title, municipal corporate name and the place in which the land is situated.

Names and Addresses of Interested Parties and Dates of Mailing of Notice

Name	Nature of Interest	Address	Mailing Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me

at .....  
this ..... day of ..... 19 .....  
.....  
A Commissioner, etc. Title

FOR OFFICE  
USE ONLY

For example: I, John M.Doe, Treasurer of the Corporation of the Township of River in the District of Thunder Bay.

#### Step 12 - Schedule - Page 2

#### **Interested Party Information**

The treasurer is required to insert the name of each interested party, nature of each's interest their, address and the mailing date of the first notice was sent.

For example if the interested party was the owner, the treasurer would fill in the following information:

Name: Joe Ratepayer

Nature of Interest: Assessed Owner

Address: 123 Water Road, River, Ontario, M5M 0M0

Mailing Date: 85/10/05

If the interested party is a Bank:

Name: The Bank of Nova Scotia

Nature of Interest: Mortgagee

Address: Box 2020, River, Ontario, M5M 1M0

Mailing Date: 85/10/05

#### Step 13 - Schedule - Page 2

#### **Swearing the Declaration**

The declaration must be declared before a Commissioner for Taking Affidavits and appropriately signed by the commissioner. Under the Commissioners for Taking Affidavits Act, clerks, deputy clerks, and treasurers, among others, are Commissioners for Taking Affidavits and declarations. However, you may not declare or swear your own declaration or affidavits.

The commissioner enters the day, month and year and signs the document. The treasurer or authorized officer will enter his or her official title and sign the document in the presence of the commissioner.

The statutory declaration should be completed as soon as practically possible after the first notices have been sent.

### **Registering the Declaration**

Once all the necessary information has been set out on the form, the treasurer is required to take the declaration to the land registry office and have it registered on title.

### **Number of Copies**

The treasurer should complete at least two copies of the form, one original for registration and one for the municipal records, both with original signatures. Enter the name and full address of the person who is to receive the duplicate copy of the form. Remember to attach a self-addressed, stamped envelope if you wish the land registry office to return your duplicate. Make certain the postage on the stamped return envelope is sufficient for the weight of the document to be returned.

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY	(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of _____ pages
	(3) Property Identifier(s)	Block _____	Property _____ Additional: See Schedule <input type="checkbox"/>
	(4) Nature of Document <b>Statutory Declaration Regarding Notices</b> <b>Form 3 — Municipal Tax Sales Act, 1984</b>		
	(5) Consideration _____ N/A _____ Dollars \$ _____ N/A _____		
	(6) Description  		
	(7) This Document Contains:		
New Property Identifiers  Executions	Additional: See Schedule <input type="checkbox"/>  Additional: See Schedule <input type="checkbox"/>	(a) Redescription New Easement Plan/Sketch <input type="checkbox"/> (b) Schedule for: Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/>	
(8) This Document provides as follows: <p>This document is a statutory declaration regarding the sending of notices which, under section 4 of the <i>Municipal Tax Sales Act, 1984</i>, is required to be made and registered against the title to the land which is liable to be sold for arrears of taxes. Page 2 of this document contains a list of the names of the persons to whom notices in the prescribed form were sent. Inquiries relating to this document may be directed to the municipality or board named in Box 10 at the address shown in Box 11.</p> <p style="text-align: right;">Continued on Schedule <input type="checkbox"/></p>			
(9) This document relates to instrument number(s) _____			
(10) Party(ies) (Set out Status or Interest) Name(s) _____ Signature(s) _____ Date of Signature Y M D _____ _____ _____ _____ Treasurer or Authorized Officer or Employee			
(11) Address for Service _____			
(12) Party(ies) (Set out Status or Interest) Name(s) _____ Signature(s) _____ Date of Signature Y M D _____ _____ N/A _____ _____			
(13) Address for Service _____ N/A _____			
(14) Municipal Address of Property	(15) Document Prepared by:		
	Fees and Tax Registration Fee _____ _____ _____ Total _____		



Additional Property Identifier(s) and/or Other Information

In the matter of the title to the withinmentioned land situate in the

of \_\_\_\_\_ in the

\_\_\_\_\_ of

I, \_\_\_\_\_, \_\_\_\_\_ of the \_\_\_\_\_

Title

of \_\_\_\_\_ in the \_\_\_\_\_

of \_\_\_\_\_, do solemnly declare as follows:

In accordance with section 4 of the *Municipal Tax Sales Act, 1984* I sent notice of the registration of a tax arrears certificate relating to the land described in this document to each of the interested parties whose names and addresses are listed below on the date set forth opposite their respective names.

Names and Addresses of Interested Parties and Dates of Mailing of Notice

Name	Nature of Interest	Address	Mailing Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me

at \_\_\_\_\_

Treasurer or Authorized Officer or Employee of the  
Municipality or Board

this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

A Commissioner, etc.

Title

FOR OFFICE  
USE ONLY







## Chapter 7

### PAYMENT OF THE CANCELLATION PRICE

#### WHO MAY PAY?

s.5(1)

Subsection 5(1) provides that "... any person may have the tax arrears certificate cancelled by paying to the municipality the cancellation price...." This means that anyone, including the owner and interested parties, may go to the municipality and pay the full amount of the cancellation price.

#### AMOUNT OF THE CANCELLATION PRICE

When someone pays the cancellation price it will normally be higher than the amount as shown on the tax arrears certificate. Added interest and penalty, current taxes that are owing and the costs associated with the tax sale procedure will raise the amount of the cancellation price. The tax arrears certificate indicates that the actual amount of the cancellation price, when it is being paid, will be higher than that which is shown on the certificate.

#### WHEN MUST PAYMENT BE MADE?

s.5(1)

Subsection 5(1) sets out the time period in which payment must be made in order to halt the potential sale of the land. Any person may make the payment within one year of the date that the tax arrears certificate was registered. If, for example, the certificate was registered on May 1, 1985 payment must be received by April 30, 1986, in order to halt the proceedings. After the year has expired the actual sale proceedings must be commenced.

#### EFFECT OF PAYMENT

s.5(1)

If payment is made within the year as described, then the procedure is stayed. Upon the registration of a tax arrears cancellation certificate the tax arrears certificate is removed from the title to the land.

## PAYMENT ON SOME PARCELS ONLY

Where a tax arrears certificate embraces more than one lot, payment may be accepted for all or some of the lots, as directed by the person paying. If for example, ten vacant lots, separately assessed and belonging to the same plan were registered on one tax arrears certificate, a person could pay the amounts owing for five of those parcels.

Care must be taken to specify clearly on the tax arrears cancellation certificate the land to which it applies, and also ensure that the Planning Act requirements are not contravened.







## Chapter 8

### CANCELLING THE PROCEDURE

Subsection 5(2) requires the treasurer, where payment of the cancellation price has been made, to make and register a tax arrears cancellation certificate in the prescribed form (Form 4).

The treasurer must determine if the person paying the cancellation price is an interested party or if it is someone who has no interest in the land.

### EFFECT OF CANCELLATION CERTIFICATE

s.5(3)

#### Liens

Subsection 5(3) provides that where a person who is entitled to receive a notice under subsection 4(1) or an assignee of the person, except the owner or spouse of the owner of the land, pays the cancellation price, that person has a lien on the land in the amount of the payment.

Where such a lien is created, it has priority over the interest in the land of any person to whom notice was sent. The owner or spouse of the owner will not receive a priority lien should they or their agent pay the cancellation price.

It is important that the correct name of the person or company be placed on the tax arrears cancellation certificate because of the lien provisions in the Act.

The registration of the tax arrears cancellation certificate by the treasurer in the appropriate land registry office, creates the lien where the person set out on the certificate is eligible to receive a lien. The registration of the certificate also serves to stay the tax sales proceedings.

## PROOF OF PAYMENT

s.7

The certificate when registered is conclusive proof that the cancellation price was paid as of the date set out in it. Therefore it should only be registered when the treasurer is absolutely sure the cancellation price has been paid.

## DETERMINATION OF THE COST COMPONENT OF THE CANCELLATION PRICE

s.1(1)(a), 15

The Act provides for two different methods for the calculation or determination of the cost component of the cancellation price. The municipality may chose either of the following options.

### **Option No. 1: Actual Costs**

This method involves charging to the person paying the cancellation price the municipality's actual costs incurred in proceeding under the Act. Only those costs that are actually incurred can be collected through this option. Subsection 1(1)(a), sets out examples of what those costs may be in the definition of cancellation price.

Eligible costs that are incurred by the municipality after the treasurer becomes entitled to register the tax arrears certificate may be collected only after the tax arrears certificate is registered in the land registry office.

The subsection also provides for items such as legal fees and disbursements, survey costs, advertising expenses and the cost of preparing an extension agreement to be included in the cancellation price.

Should a municipality employ this option, the treasurer will be required to determine those actual costs associated with the cancellation price. The

treasurer should keep a record of the costs associated with each individual file. The accuracy of this record is important should any questions be raised as to the reasonableness of those costs charged by the municipality.

## **Option No. 2: Scale of Costs**

Section 15 permits the council of a municipality to pass a by-law fixing a scale of costs to be charged as the reasonable costs of proceeding, alternative to charging the actual costs.

The section stipulates that the scale must be designed to meet only the anticipated costs of the municipality and these costs are required to be reasonable. Past experience should assist municipalities in establishing what their reasonable costs might be.

Adoption by the council of a scale of costs by-law would permit the treasurer to charge out the municipality's costs on the basis of the scale. A record of the actual costs for each file processed would not have to be kept.

The design of the scale is a decision of each municipality. The scale may be amended or revoked at the discretion of the council.

Chapter 22 contains an illustration of two sample scale of costs established by by-law. They are only samples. Municipalities should consult with their solicitor when drafting their by-law.

## **COMPLETING THE CANCELLATION CERTIFICATE**

### **Prescribed Form 4**

The following information should be considered for inclusion when completing a tax arrears cancellation certificate.



### Step 1 - Box 1

Mark with an "X" to indicate whether the land is registered in the registry or land titles system.

### Step 2 - Box 2

Enter the total number of pages to the form. If no schedules are needed the form will be one page long.

### Step 3 - Box 3

If property identifiers have been assigned by the land registry office to the land, enter them here. Only a maximum of two should be entered here. If there are more than two mark the "Additional See Schedule" box with an "X" and attach the schedule. If no identifiers are assigned leave the box blank.

### Step 4 - Box 6

In the space provided in box 6 the treasurer is required to provide a legal description of the land to which the certificate applies. The description should be the same as that provided in the tax arrears certificate (Form 1). As with all descriptions on the prescribed forms, they should begin with the parcel and section (in land titles), the part, lot or unit on the plan or concession lot. Include the status of the municipality (township, city, etc,) and if it is a condominium property enter a reference to the land registry office in which the plan is registered.

Preambles such as "All and Singular that certain " are not required. Should a metes and bounds description be involved, a schedule may be needed. Enter "SEE SCHEDULE" in box 6 after the brief description, and attach a schedule.

FOR OFFICE USE ONLY

New Property Identifiers

Additional:  
See  
Schedule ☐

Executions

Additional:  
See  
Schedule ☐

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch ☐ (b) Schedule for: Description ☐ Additional Parties ☐ Other ☐

(8) This Document provides as follows:

A. The person signing in Box 10 hereby certifies that in accordance with the *Municipal Tax Sales Act, 1984*, the tax arrears certificate referred to in Box 9 is cancelled in respect of the property described in this document. Unless Part B of this Box has been completed, the cancellation price remains unpaid and a new tax arrears certificate may be registered in this matter.

B. (Complete if appropriate or delete)

The person signing in Box 10 hereby certifies that the cancellation price was paid on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ by or on behalf of,

(check one)

- ☐ the owner or the spouse of the owner of the land or by a person who was not entitled to receive notice under subsection 4(1) of the Act and accordingly there is no lien on the land described in this document in respect of such payment, or
- ☐ a person, other than the owner or the spouse of the owner of the land, who was entitled to receive notice under subsection 4(1) of the Act or an assignee of such person, and, as a result of such payment (name and address of party)

\_\_\_\_\_ has a lien on the land in the amount of \_\_\_\_\_ and such lien has priority over the interest of any person to whom notice was sent under section 4 of the Act. Continued on Schedule ☐



For example:

LAND TITLES: Parcel 99-2 Section 40M-542 Being  
Lot 2 Plan 40M-542 Township of River  
District of Thunder Bay

REGISTRY: Part of Lots 111 and 112, Registered Plan 1001,  
North York, City of North York  
SEE SCHEDULE

#### Step 5 - Box 7b

If a schedule for a description is necessary, mark the box with an "X".

#### Step 6 - Box 8

Since the cancellation certificate serves a dual purpose, box 8 has been designed and pre-printed to include the necessary information. The treasurer will be using the cancellation certificate either when an error or omission requires the halting of the procedure or where the cancellation price is paid.

If there is an error such as a misdescription (i.e. the wrong property is registered), Part A would apply. Part B would not be completed and would be deleted (stroked out).

If the cancellation price is paid Part B applies (delete Part A). The treasurer enters the day, month and year in which payment was made. The treasurer must then indicate by a check mark the type of person making payment. Should the owner, spouse of the owner or a non-interested person pay the cancellation price, the treasurer checks the first box.

If payment is made by or on behalf of, someone who was entitled to receive a notice, the second box applies and a check mark is entered.

(9) This document relates to instrument number(s)		
(10) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y M D
.....	.....	.....
.....	.....	.....
.....	.....	.....
(11) Address for Service		

The name and address of the party making payment must be provided as well as the amount of the payment.

For example, if the Bank of Nova Scotia held a mortgage on the property and paid \$3,000 (which was the cancellation price), the bank's full name and address is entered. The \$3,000 is also written in. The effect is that a priority lien in the amount of \$3,000 is created in the name of the bank.

Step 7 - Box 9

Enter the registration number of the tax arrears certificate. For example: 100001.

Step 8 - Box 10

In this box enter the name of the municipal corporation in capital letters. The treasurer must then sign the document. After signing, the treasurer will have to enter in the space provided the date of signature.

For example:

PARTY(IES)	SIGNATURE(S)	DATE OF SIGNATURE		
THE CORPORATION OF	<i>John M. Doe</i>	<b>Y</b>	<b>M</b>	<b>D</b>
THE TOWNSHIP OF RIVER		85	11	03

Step 9 - Box 11

The address of the municipality or board, including the postal code, must be entered in this box. Anyone wanting to contact the municipality or board may do so at the address provided.

<b>(12) Party(ies) (Set out Status or Interest)</b> Name(s)	Signature(s)
..... .....	..... .....

Address for Service ..... N/A .....

<b>(14) Municipal Address of Property</b>	<b>(15) Document Prepared by:</b>	<div style="writing-mode: vertical-rl; transform: rotate(180deg);">FOR OFFICE USE ONLY</div>	<b>Fees and Tax</b>
			Registration Fee
			<b>Total</b>

#### Step 10 - Box 14

Should there be a municipal address assigned to the property (not the legal description) it must be shown in box 14. It is necessary to provide the full municipal address in the following format: the street number, suffix if there is one, the street name, unit type, unit number, municipality and the postal code. If no municipal address has been assigned enter, "NOT ASSIGNED."

For example:

21 North Street,  
River, Ontario,  
NOP 4M0

or

"NOT ASSIGNED"

#### Step 11 - Box 15

The name of the person who completes this form and their address must be shown in box 15. If it was the treasurer, enter the treasurer's name, title and address. If a solicitor completed the form, enter the solicitor's name and full address. The name of the solicitor's firm should be included.

For example:

John M. Doe,  
Treasurer,  
Township of River,  
11 Centre Street  
Box 101,  
River, Ontario  
M7B 1C3

or

Bill Batch,  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario.  
N0P 2B4



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## Chapter 9

### ACCOUNTING FOR THE CANCELLATION PRICE

Subsection 6(1) provides that the person who paid the cancellation price, except where there is a scale of costs by-law, may request an itemized breakdown of the cancellation price paid.

#### **WHEN MUST THE REQUEST BE MADE?**

s.6(1)

A person who requests the itemized breakdown from the treasurer must make it prior to the expiry of a 30-day period which commences on the date the payment of the cancellation price is paid to the municipality.

#### **HOW IS THE REQUEST MADE?**

s.6(1)

Any person who makes the request must do so in writing to the treasurer.

#### **WHEN MUST THE TREASURER RESPOND?**

s.6(2)

Subsection 6(2) provides that the treasurer has 30 days from the date of the request being made to submit the breakdown of the cancellation price to the person.

#### **APPLICATION TO DISTRICT COURT**

s.6(2)

Should the treasurer fail to provide the itemized breakdown or if the person who made the request is of the opinion that there is an error in the calculation of the cancellation price or if the costs included by the municipality are unreasonable, the person may apply to the District Court for an accounting of the price.

## COURT DETERMINATION

s.6(3)

When an application for an accounting has been made, the court must determine the matter. If it finds that the cancellation price has been incorrectly calculated or if the costs are unreasonable, the court can make an order setting the cancellation price. It is therefore essential that the costs established and charged by the municipality be reasonable.

Validly imposed real property taxes are not affected by such an order and a taxpayer is not relieved of any liability to pay those taxes.







## Chapter 10

### EXTENSION AGREEMENTS

#### WHAT ARE EXTENSION AGREEMENTS?

s.8(1)

Subsection 8(1) of the Act provides that municipalities may enter into agreements only with the owner of the land, (or the spouse of the owner in the case of a matrimonial home), to extend the period of time in which payment of the cancellation price may be made.

#### WHEN ARE THEY USED?

The entering into of such agreements is at the discretion of the municipal council and they may determine under what circumstances an agreement may be constituted. Normally, it would be expected that in situations where there are economic hardships, such as where the owner is on mother's allowance, an agreement might be made.

#### HOW ARE THE AGREEMENTS IMPLEMENTED?

s.8(1)

Subsection 8(1) provides that, should the municipality decide to enter into an agreement, it must pass a by-law after the registration of the tax arrears certificate and before the expiry of the one-year period from the date of registration of the certificate.

The extension agreement may be drawn up and signed by the property owner, the signatures of the municipal officials being added at the time the authorizing by-law is signed. Alternatively, the agreement may be drawn up, the by-law passed by council and signed, with the agreement being signed by the owner or owner's spouse immediately following the council meeting or the next day. The by-law must be passed and the agreement must be signed before the end of the one-year redemption period.

## EFFECT WHILE IN FORCE

### s.8(1),(3)

Once council formally passes the authorizing by-law and both parties execute the agreement the expiry of redemption period is held in abeyance. The time is frozen as of the day the agreement comes into effect.

Subsection 8(3) prescribes that during the life of the agreement the time shall not be counted by the treasurer in calculating the periods set out in subsection 9(1). In other words, the grace period or year for redemption is extended by the period that the extension agreement is in force. During the time the agreement is in effect the treasurer would not do such things as send out the final notices (if the agreement is entered into after the mailing of the first notice and prior to the final notice), to the interested parties or advertise the land for sale.

#### Example:

On January 1, 1985 a tax arrears certificate is registered.

On June 1, 1985 council passes a by-law and makes an agreement with the owner or spouse of the owner, authorizing the entering into and execution of an extension agreement with the owner of the land. The terms are that the owner will have twelve months from the time the agreement is executed to pay the cancellation price. If the owner does not default on the terms of the agreement, the cancellation price will be paid in full on May 31, 1986.

If, however, the owner defaults on payment during the agreement and the terms call for the cancellation of the agreement upon default, then the year of redemption is resumed as of the day of the default. The treasurer starts to count the time again for things like the sending of the final notice.

If, for example, the owner defaulted on September 1, 1985, the expiry of the year for redemption would now be on March 30, 1986. In effect the owner has had an extra three months tacked on to the regular year for redemption (December 31, 1985).

## CONTENTS

### s.8(2)

The actual extension agreement should be drawn up by a solicitor with the assistance of the municipal or board official. There are certain things that might be considered for inclusion in the agreement. There are also some mandatory items that must be included in every extension agreement.

### **Mandatory Provisions**

The agreement must state:

- when and under what conditions it shall cease to be considered a subsisting agreement. In other words the conditions of default and payment;
- that any person may pay the cancellation price at any time; and
- that it terminates upon payment of the cancellation price by any person.

### **Possible Provisions**

Although not specifically required, listed below are a number of provisions that might form part of the agreement if they are suitable to individual municipalities:

- the amount of the payment;
- the number of payments;

- the time of each payment;
- the date of the final payment;
- that the ratepayer agrees to pay all taxes as they become due during the agreement;
- that all taxes mentioned above remain a special lien on the land in priority, except those claims of the Crown;
- if the ratepayer defaults on any payments (including payments on current taxes) and upon notice being given to the ratepayer by the municipality, the agreement shall be terminated;
- where the agreement is terminated the ratepayer's land shall be subject to procedures in the Act as it was before entering into the extension agreement. Where a number of payments have been made during the life of the agreement a new cancellation price is created. If this new cancellation price is not paid within the required time a sale of the land will proceed;
- that in the event of a default and termination of the agreement, the agreement shall cease to be considered a subsisting agreement on the date that the notice of termination is sent to the ratepayer;
- that upon completion of all the payments within the established time and in the manner set out, the agreement shall be terminated and the treasurer of the municipality shall register in the appropriate land registry office a tax arrears cancellation certificate in respect of the land;



- that upon receiving payment in full of the cancellation price by any person, the treasurer of the municipality shall register in the appropriate land registry office a tax arrears cancellation certificate in respect of the land;
- that upon request of any person the treasurer shall permit inspection of a copy of the agreement and shall provide copies of it at the same rate charged under section 78 of the Municipal Act, R.S.O Chapter 302 (even if this is not in the agreement itself, the agreement must be open to public inspection. S.8(4) the Municipal Tax Sales Act, 1984);
- that the agreement extends to and binds the respective heirs, legal personal representatives and successors.

These provisions are not exhaustive and are listed only as items that might be used in the agreement. Municipalities must develop their own agreement and authorizing by-law with the assistance of their solicitors.

A sample authorizing by-law and a sample extension agreement are provided in Chapter 22. They are samples only. Municipalities should consult their solicitor when drafting their by-law and agreement.

### ACCOUNTING FOR PART PAYMENTS

The nature of extension agreements calls for special arrangements as to payment of the cancellation price by the owner of the land or the spouse of the owner.

Normally the agreements will allow for payment over a specified period of time and in a specified amount for each payment. As the money comes into the municipality, whether, for example, it is in monthly or twice monthly instalments, the treasurer should consider crediting the money to the tax sale account to reduce the cancellation price. The payments

may then be applied first to reduce the total penalties and interest, and any balance that remains is directed to the oldest tax principal outstanding. Penalties and interest continue to be charged on the outstanding principal until the account is paid in full.

For a guide to the actual accounting entries that will need to be kept for municipal records, please refer to Chapter 19.

### DEFAULTING ON THE AGREEMENT

Should the owner or spouse of the owner, whichever is a party to the agreement, (in the case of a matrimonial home), default on the agreement after making a number of payments towards the cancellation price, a new cancellation price is established.

Since part of the original cancellation price has been paid in this instance, there will be a new price created by subtracting the amount paid from the original amount in accordance with the accounting principles established. The treasurer may complete the tax sale procedure for the amount of the new cancellation price.

### ENTERING INTO AGREEMENT AFTER FINAL NOTICE

Should the municipality enter into an extension agreement with the owner or the spouse of the owner of the land after the final notice has been sent out, the treasurer should consider notifying all the interested parties of the agreement in the proper manner. Although there is no requirement for this in the Act, it might be a positive step to take since the interested parties will have no formal means of knowing that an extension has been granted. They may indeed wonder why no advertisements have been placed announcing the intention to sell the land after the one-year redemption period expires.





## Chapter 11

### FINAL NOTICE / NO PAYMENT

#### FINAL NOTICE

##### s.9(1)

If no person pays to the municipality the cancellation price before the expiry of the period which begins on the date the tax arrears certificate is registered and ends 280 days later, the treasurer is required to send a final notice (Form 5).

#### WHEN MUST THE NOTICE BE SENT?

The treasurer has 30 days after the expiry of the 280-day period to send the final notices.

#### WHO IS ENTITLED TO A FINAL NOTICE?

##### s.9(1)

Subsection 9(1) provides that the treasurer must send or cause to be sent this final notice to all those persons who received the first notice.

#### NO SECOND SEARCH

##### s.9(1)

Subsection 9(1) states that the treasurer must send or cause to be sent the final notice in the prescribed form to all those entitled to receive a notice under section 4. This means that only those persons who were entitled to a first notice will have to be sent a final notice. Consequently, the treasurer will not have to conduct a second search of the registry or land titles or sheriff's offices records.

#### EFFECT OF NOTICE

The final notice is a second warning to the interested parties and the owner that if the cancellation price is not paid in full to the municipality

**Form 5**  
**Final Notice**  
*Municipal Tax Sales Act, 1984*

*STEP 1*

The \_\_\_\_\_  
Name of Municipality or Board

To: \_\_\_\_\_  
*STEP 2*

Address: \_\_\_\_\_  
  
\_\_\_\_\_

**Re: (Description of Land;** a parcel number must be provided where the land is registered in the land titles system)

*STEP 3*

1. *You are hereby notified, as a person to whom a notice of registration of a tax arrears certificate against the land described above was sent, that the cancellation price remains unpaid and that there is no subsisting extension agreement.*

*STEP 4*

2. The land will be advertised for public sale unless the cancellation price is paid or an extension agreement, between the municipality (*or board*) and the owner of the land, is arranged before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.



before the expiry of the one-year redemption period or if there has been no extension agreement entered into, then the land will be advertised for public sale.

## COMPLETING THE FINAL NOTICE

### Prescribed Form 5

If at the expiry of the 280 day period no payment of the cancellation price has been made, or if no extension agreement has been entered into the treasurer must send the final notice in the prescribed form.

The following information should be included in the notice to the interested party.

#### Step 1

Enter the full corporate name of the municipality or board, in capital letters.

#### Step 2

In the space provided enter the name and address of the interested party to which the notice is to be sent.

#### Step 3

Complete the description of the land in the space provided. An accurate description is essential and where the land is registered in the land titles office, be sure to include a parcel number of the land. The description should be the same as that on the tax arrears certificate.

#### Step 4

In paragraph 2 enter the last date on which payment of the cancellation price must be received in order to stay the advertisement of the land for public sale.

**STEP 5**

3. Any inquiry regarding this notice may be directed to:

Title

Name of Municipality or Board

Address of Municipality or Board

Dated at

this

day of

19

**STEP 6**

.....  
*Signature of Treasurer or Other Officer or Employee Authorized to Give this Notice*

*Title*

**Note:** This document need not be registered.

#### Step 5

In paragraph 3 complete the title of the person to whom any inquiries may be directed, as well as the name and address of the municipality or board.

#### Step 6

In the space available enter the place in which the notice was signed and the day, month and year in which it was done. The treasurer or designated officer must sign the form and provide his or her title in the appropriate space.

NOTE: This form does not have to be registered in any land registry office.

**Form 5**  
**Final Notice**  
*Municipal Tax Sales Act, 1984*

*STEP 1*

The \_\_\_\_\_  
Name of Municipality or Board

To: \_\_\_\_\_  
*STEP 2*

Address: \_\_\_\_\_  
  
\_\_\_\_\_

**Re: (Description of Land;** a parcel number must be provided where the land is registered in the land titles system)

*STEP 3*

1. *You are hereby notified, as a person to whom a notice of registration of a tax arrears certificate against the land described above was sent, that the cancellation price remains unpaid and that there is no subsisting extension agreement.*

*STEP 4*

2. The land will be advertised for public sale unless the cancellation price is paid or an extension agreement, between the municipality (or board) and the owner of the land, is arranged before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

*STEP 5*

3. Any inquiry regarding this notice may be directed to:

<small>Title</small>	<small>Name of Municipality or Board</small>
----------------------	--

Address of Municipality or Board \_\_\_\_\_  
  
\_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

*STEP 6*

.....  
Signature of Treasurer or Other Officer or Employee Authorized to Give this Notice Title

**Note:** This document need not be registered.





## Chapter 12

### EXPIRY OF REDEMPTION YEAR

Should the year for redemption, which began on the date that the tax arrears certificate was registered, expire without the payment of the cancellation price or the entering into of an extension agreement then the treasurer must commence certain procedures.

#### **TREASURER'S STATUTORY DECLARATION**

##### Clause 9(2)(c)

As with the sending of the first notice, the treasurer is required to complete a statutory declaration in the prescribed form (No. 6) after the final notice has been sent to the interested parties.

It is recommended that the declaration be completed soon after sending the notices out to ensure the information is correctly recorded although the Act does not require its preparation until the expiry of the one-year period.

There is no requirement in the Act to have this declaration registered on title. The treasurer should keep the declaration on file for future reference. It is important that the declaration be completed since it again represents the treasurer's proof that the notices were sent as they should have been.

#### **ADVERTISEMENT REQUIREMENTS**

##### Clause 9(2)(d)

If the cancellation price remains unpaid at the expiry of the one-year period, the treasurer is required to advertise the land for public sale.

Clause 9(2)(d) sets out the mandatory advertisement requirements. The treasurer must:



← 180 mm (85 characters 12 pitch) →

↑ 282 mm (67 typewriter lines) ↓

## SALE OF LAND FOR TAX ARREARS

### THE XXXXXXXX BOARD OF EDUCATION

Take Notice that tenders are invited for the purchase, individually, of the lands described below and will be received until 3:00 p.m. local time on Friday, November 8, 1986, at 2135 Main Street, Any Town, Ontario M7A 1N8.

#### Description of Lands

#### Minimum Tender Amounts

A. North Part of Lot 14, Concession 3, Any Township, designated as Part 1 on Plan 55R-2786, Parcel 5071, Any Town Freehold . . . . .	\$1,440.00
B. Part of North half of Lot 1, Concession 4, Any Town Township . . . . .	\$1,440.00
B. Part of North half of Lot 1, Concession 4, Any Town Township . . . . .	\$1,700.00
C. Lot 37, Concession 1, Dawson Road Lots, Parcel 3378, District F . . . . .	\$5,800.00
D. Lot 36, Concession 3, Devon Township, Parcel 649, Dist. G.B. . . . .	\$2,600.00
E. Lot 37, Concession 1, Devon Township, Parcel 76, Dist. of G.B. . . . .	\$2,600.00

For further information regarding the regulations of this sale . . .

Thomas C. Lake  
Barrister and Solicitor  
880 Bay Street  
Toronto, Ontario M7A 1N8

- advertise the land for sale once in the Ontario Gazette,
- advertise the land for sale once a week for four weeks in a newspaper that, in the opinion of the treasurer, has general circulation in the municipality sufficient to provide reasonable notice or where there is no such newspaper post up a notice in the municipal office and in at least one other prominent place in the municipality.

The advertisement must be in the prescribed forms. Form 7 applies to a public tendering advertisement and Form 9 to the public auction advertisement.

### ONTARIO GAZETTE REQUIREMENTS

The Ontario Gazette is published every Saturday. In order to have an advertisement published the advertisement must be received before Thursday 4 p.m. nine days before the publication date. If this deadline is not met the advertisement may not make it into the next issue of the Gazette.

The Gazette requires that each advertisement should be typewritten and should be separate from its covering letter. The number of times the advertisement is to run (once for the purposes of the Municipal Tax Sales Act, 1984.) and the municipality's billing address should be included in the covering letter.

The names of any signing officers should be typewritten on the advertisement itself (see sample opposite).

The copy (advertisement) should be typed 180 mm wide or 85 characters using a 12 pitch (12 characters to the inch) typewriter. Overall depth should be 282 mm or 67 typewriter lines, including blank spacing lines.

Form 6  
**Statutory Declaration Regarding the Sending of Notice**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

The \_\_\_\_\_  
Name of Municipality or Board

**STEP 2**

In the matter of the title to the undermentioned land situate in the

\_\_\_\_\_  
of \_\_\_\_\_ in the  
\_\_\_\_\_  
\_\_\_\_\_ of  
\_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_ of the \_\_\_\_\_  
Title  
of \_\_\_\_\_ in the \_\_\_\_\_  
of \_\_\_\_\_, do solemnly declare as follows:

In accordance with section 9 of the *Municipal Tax Sales Act, 1984* I sent a final notice relating to the following land to each of the interested parties whose names and addresses are listed below on the date set forth opposite their respective names:

Following these instructions will assist the Gazette in publishing advertisements as promptly and efficiently as possible.

The address of the Ontario Gazette is:

5th Floor,  
880 Bay Street,  
Toronto, Ontario  
M7A 1N8  
Telephone: (416) 965-2238

## COMPLETING THE STATUTORY DECLARATION

### Prescribed Form 6

The treasurer is required by the Act to complete a statutory declaration after sending the final notice. The following information should be included in the form.

#### Step 1

Enter the full corporate name of the municipality or board, in capital letters.

#### Step 2

In swearing the declaration the treasurer must indicate the place in which the land is found. For example "... land in the Township of River in the District of Thunder Bay. After entering that information the treasurer must include his or her name, title, the municipal board or corporate name and the region, county etc. in which the land is situate.

An illustration:

I John M. Doe, Treasurer in the Corporation of the Township of River in the District of Thunder Bay.

### STEP 3

### STEP 4

Name	Nature of Interest	Address	Mailing Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Declared before me

### STEP 5

at \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Treasurer or Authorized Officer or Employee of the Municipality or Board

A Commissioner, etc.

Title

**Note:** This document need not be registered.

The declaration must be declared before a Commissioner for Taking Affidavits, with the Commissioner completing the necessary information and signing the form.

### Step 3

Enter a proper legal description of the land. It should be the same as that provided in the tax arrears certificate. Remember, If the land is in land titles, provide the parcel number.

### Step 4

Complete the information regarding the names and addresses etc. of the interested parties who were sent the final notice. For a description of the information required refer to the section describing the completion of the first statutory declaration. (Chapter 6, page 47)

### Step 5

The treasurer must sign the form and enter his or her title in the proper spot. As well, the swearing must be done in the presence of a Commissioner for Taking Affidavits who enters the necessary information and signs the form.

NOTE: This document does not need to be registered in any land registry office.



Form 6  
Statutory Declaration Regarding the Sending of Notice  
Municipal Tax Sales Act, 1984

STEP 1

The \_\_\_\_\_  
Name of Municipality or Board

STEP 2

In the matter of the title to the undermentioned land situate in the

\_\_\_\_\_

of \_\_\_\_\_ in the

\_\_\_\_\_ of

\_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_ of the \_\_\_\_\_  
Title

of \_\_\_\_\_ in the \_\_\_\_\_

of \_\_\_\_\_, do solemnly declare as follows:

In accordance with section 9 of the *Municipal Tax Sales Act, 1984* I sent a final notice relating to the following land to each of the interested parties whose names and addresses are listed below on the date set forth opposite their respective names:

**Set out description of land** (A parcel number must be provided where the land is registered in the land titles system)

STEP 3

STEP 4

**Names and Addresses of Interested Parties and Dates of Mailing of Notice**

Name	Nature of Interest	Address	Mailing Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me

STEP 5

at \_\_\_\_\_

Treasurer or Authorized Officer or Employee of the  
Municipality or Board

this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

A Commissioner, etc.

Title

**Note:** This document need not be registered.







## Chapter 13

### SALE PROCEDURES

#### DEFINITIONS

##### Public Tender and Public Auction

##### **Accumulated taxes**

These are real property taxes that have accumulated since the first day of advertising of the land for sale until a successful purchaser is declared.

##### **Cash deposit**

This is a deposit in the form of a certified cheque, bank draft or money order obtained from a bank, trust company or Province of Ontario Savings Office. The deposit must accompany any tender submitted to the municipality.

##### **Paid in cash**

This term includes payment by cash, bank draft, certified cheque or money order obtained from a trust company, bank or Province of Ontario Savings Office.

##### **Real property taxes**

These are real property taxes as defined in the Act. Refer to Chapter 3 for an explanation.

### PUBLIC TENDERING

Should the treasurer decide to carry out sale proceedings by public tendering, Ontario Regulation 444/85 sets out the manner in which the treasurer must conduct the tendering. The use of tendering a sale does not preclude the treasurer from using the public auction method for succeeding sales.

## ADVERTISEMENT CONTENTS

If public tendering is being used to sell the land the treasurer is required to advertise the land in the prescribed form (Form 7). The advertisement must contain as a minimum the following information;

- the cancellation price calculated as of the first day for advertising the land for sale. It must be indicated in the advertisement that the cancellation price will be the "minimum" acceptable tender for the land.
- the last time and date for receiving the tenders. This time and date must be at least seven days from the last advertisement in the Ontario Gazette or newspaper or where there is no paper, the posting of the notice, of submission of tenders.

## SUBMISSION OF TENDERS

### Rule 5(1)

Every tender that is submitted to the municipality or board must be made in prescribed Form 8. Each tender must:

- be either typewritten or legibly handwritten in ink;
- be accompanied by a cash deposit of at least 20% of the tender amount;
- be submitted in a sealed envelope addressed to the treasurer. The outside of the envelope must be marked "Tax Sale For" (short description or municipal address of the property sufficient to identify to the treasurer the parcel of land to which the tender relates);
- no envelope can contain tenders relating to more than one property (each property must be sold individually); and
- be addressed to the treasurer.

NOTE: A municipality or board may itself submit a tender on any property advertised for sale.

#### **DATE AND TIME STAMP**

##### **Rule 6**

The treasurer is required upon receiving a tender envelope to identify on the outside of the envelope the time and date the envelope was received.

#### **SAFE PLACE**

##### **Rule 6**

After the treasurer has received a tender envelope and has marked on the outside of the envelope the date and time it came into the municipality the tender must be placed unopened in a safe place. This serves to ensure security of the tenders and assists in maintaining the integrity of the tender process.

#### **WITHDRAWAL OF TENDERS**

##### **Rule 7**

Should a person who has submitted a tender to the municipality wish to withdraw the tender the tenderer must:

- submit a written request to the treasurer requesting the withdrawal; and
- the request must be received by the treasurer before 3:00 p.m. on the last date for receiving tenders.

Upon receiving a proper request for withdrawal the treasurer should:

- place the request in a safe place and must;
- open the envelope containing a withdrawn tender at the time of the opening of the other tenders.

## OPENING PROCEEDINGS

### Rule 8

The official opening of the tenders is carried out by the treasurer in the presence of at least one other person who has not submitted a tender, who may be someone employed by the municipality.

#### Place and Time of Opening

The actual opening proceedings must be held in a place that is open to the public. Any member of the public may attend the opening.

The treasurer is required to open the sealed tender envelopes as soon as possible after 3:00 p.m. local time on the last date for receiving the tenders.

## EXAMINATION AND REJECTION OF TENDERS

### Rule 8(3)

After opening the envelopes the treasurer must examine and scrutinize each tender and is required to reject those tenders that:

- are not equal to or greater than the cancellation price as shown in the advertisement;
- are not accompanied by the proper deposit (at least 20% of the amount tendered for the land);
- are illegible or relate to more than one property;
- are not in Form 8 as set out in the Regulation;
- have been withdrawn in accordance with the rules;
- include any terms or conditions not provided for in the rules;

- are not in sealed envelopes and properly marked; and
- are not addressed to the treasurer.

### TIE TENDERS

#### Rule 6(2)

Should the treasurer receive two or more tenders that are equal, the one received earliest would be considered to be the highest tender. This reinforces the need to ensure that the date and time are always stamped on the outside of the envelopes.

### STATEMENT OF REJECTION

#### Rule 8(5)

Every rejected tender must be sent back to the tenderer, accompanied by a statement explaining the reasons for the rejection. Any deposit that was submitted with the tender must also be returned.

### REJECTION OF ALL THE TENDERS

#### Rule 9

If all the tenders for a specific parcel of land are rejected in accordance with the rules, the treasurer is required to declare that there is "no successful purchaser" and must forthwith register, in the appropriate land registry office, a "notice of vesting" in the name of the municipality. Upon registration, the title to the land is transferred to the municipality free and clear, except for those interests that are protected under the Act.

### RETENTION OF TENDERS

After rejecting tenders that do not comply with Rule 8, the treasurer must also reject all but the two highest of the remaining tenders.



For example:

If the cancellation price was \$1,000 and the remaining tenders that were submitted were \$1,300, \$1,500, \$1,750 and \$2,000 the treasurer would retain the tenders in the amounts of \$1,750 and \$2,000. The other two tenders would be rejected.

## **TWO TENDERS REMAIN**

### **Rule 10**

Where two tenders remain for the land after all others have been rejected the treasurer must notify the highest tenderer of the two that he or she will be declared to be the successful purchaser if, within 14 calendar days of the mailing of the notice by the treasurer, the balance of the amount tendered is submitted, together with the land transfer tax and any accumulated taxes, and the payment is made in cash to the treasurer.

### **Return of Second Highest Tender**

If the highest tenderer complies with the payment requirements within the time period set out, the treasurer must:

- declare the person to be the successful purchaser;
- return the tender and deposit of the other tenderer; and
- furnish the unsuccessful tenderer with a statement setting out the reasons for the return of the tender and deposit.

### **Where Highest Tenderer Fails to Pay**

Should the higher of the two remaining tenderers fail to pay within the time set out or fail to pay the required amounts, that tenderer's deposit is forfeited to the municipality or board and the treasurer must offer the parcel of land to the next highest tenderer of the two retained. If this tenderer complies with the payment requirements the treasurer shall declare that person to be the successful purchaser. If the payment provisions are not complied with, that person's deposit is also forfeited and the tender is rejected.

## **Municipality Obtains Title**

If both of the two highest tenderers fail to comply with the payment rules then the treasurer declares that there is no successful purchaser and must forthwith register a notice of vesting (Form 11) in the name of the municipality.

## **REJECTION OF ALL BUT ONE TENDER**

### **Rule 11**

Where the treasurer has rejected all but one tender in accordance with the rules, the treasurer must inform the remaining tenderer that he or she will be declared the successful purchaser if the tenderer within 14 calendar days of the mailing of the notice pays the balance of the full amount tendered, together with the land transfer tax applicable to the sale price and any accumulated real property taxes and, payment is made in cash to the treasurer.

## **Forfeiture of Deposit**

If the tenderer does not comply with the payment requirements and therefore is not declared to be the successful purchaser then that tenderer's deposit is forfeited to the municipality.

## **Municipality Obtains Title**

Should only one tender remain after all others are rejected and the tenderer fails to comply with the payment requirements and is not declared to be the successful purchaser, upon registering a notice of vesting the municipality or board receives title to the land subject to the limitations set out in the Act.

Form 7  
**Sale of Land By Public Tender**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

The \_\_\_\_\_  
Name of Municipality or Board

**STEP 2**

**Take Notice** that tenders are invited for the purchase of the land(s) described below and will be received until 3:00 p.m. local time on \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

The tenders will then be opened in public on the same day at \_\_\_\_\_

**Description of Land(s)**

**STEP 3**

**STEP 4**

**Minimum Tender Amount**  
(Set out the cancellation price  
as of the first day of advertising)

Tenders must be submitted in the prescribed form and must be accompanied by a deposit in the form of a money order or of a bank draft or cheque certified by a bank, trust company or Province of Ontario Savings Office payable to the municipality (or board) and representing at least 20 per cent of the tender amount.

The municipality makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rests with the potential purchasers.

This sale is governed by the *Municipal Tax Sales Act, 1984*, being chapter 48 of the Statutes of Ontario 1984 and the *Municipal Tax Sales Rules* made under that Act. The successful purchaser will be required to pay the amount tendered plus accumulated taxes and the relevant land transfer tax.

## COMPLETING THE TENDER ADVERTISEMENT

### Prescribed Form 7

When advertising for a sale by public tender the treasurer is required to advertise the sale in the prescribed form (No.7). The treasurer should complete the following information in the advertisement:

#### Step 1

Enter the full name of the municipality or board that is offering the land for public sale by tender.

#### Step 2

Enter the last date upon which tenders will be received by the treasurer. Include also the place at which the tenders should be sent. Enter the place and time of the opening so that those persons who submit a tender will be able to attend if they so choose.

#### Step 3

The treasurer must provide a description of the land being offered for sale. Often the street address will be sufficient to identify the land that is being offered for sale.

The treasurer may advertise more than one property for sale in a single advertisement. If there were four or five properties to be sold they can be included on one advertisement, so long as they are properly identified.

#### Step 4

The treasurer must provide the minimum tender amount that will be acceptable for each property that is being offered for sale. The minimum tender amount will be the cancellation price as of the first date of advertising.

*STEP 5*

**For further information regarding this sale and a copy of the prescribed form of tender contact:**

Title

Name of Municipality or Board

Address of Municipality or Board

### Step 5

In order to provide a contact person for potential purchasers to direct any inquiries, enter the person's name, title and the address of the board or municipality.





Form 7  
**Sale of Land By Public Tender**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

The \_\_\_\_\_  
Name of Municipality or Board

**STEP 2**

**Take Notice** that tenders are invited for the purchase of the land(s) described below and will be received until 3:00 p.m. local time on \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

The tenders will then be opened in public on the same day at \_\_\_\_\_

**Description of Land(s)**

**STEP 3**

**STEP 4**

**Minimum Tender Amount**  
(Set out the cancellation price  
as of the first day of advertising)

Tenders must be submitted in the prescribed form and must be accompanied by a deposit in the form of a money order or of a bank draft or cheque certified by a bank, trust company or Province of Ontario Savings Office payable to the municipality (or board) and representing at least 20 per cent of the tender amount.

The municipality makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rests with the potential purchasers.

This sale is governed by the *Municipal Tax Sales Act, 1984*, being chapter 48 of the Statutes of Ontario 1984 and the *Municipal Tax Sales Rules* made under that Act. The successful purchaser will be required to pay the amount tendered plus accumulated taxes and the relevant land transfer tax.

**STEP 5**

**For further information regarding this sale and a copy of the prescribed form of tender contact:**

Title	Name of Municipality or Board
-------	-------------------------------

Address of Municipality or Board \_\_\_\_\_

Form 8  
**Tender to Purchase**  
*Municipal Tax Sales Act, 1984*

*STEP 1*

To: Name:

Address:

Telephone:

Re: Sale Of: (description of land)

*STEP 2*

*STEP 3*

1. I/we hereby tender to purchase the land described above for the amount of \$\_\_\_\_\_ (\_\_\_\_\_ dollars) in accordance with the terms and conditions of the *Municipal Tax Sales Act, 1984* and the Municipal Tax Sales Rules.

*STEP 4*

2. I/we understand that this tender must be received by the Treasurer's Office not later than 3:00 p.m. local time on \_\_\_\_\_ 19\_\_\_\_\_, and that in the event of this tender being accepted, I/we shall be notified of its acceptance.

## COMPLETING THE TENDER TO PURCHASE

(For use by the tenderer)

### Prescribed Form 8

Every tender that is submitted to the municipality or board must be in Form 8, "Tender To Purchase." If a tender is not provided in the prescribed form the treasurer must reject it. The following information should be included by the tenderer in the form:

#### Step 1

The name, address and telephone number of the treasurer must be entered. Treasurers should consider completing this part of the form to assist the tenderer. Preprinting of this information can be undertaken.

#### Step 2

A description of the property being sold must be indicated on the form. The description should be sufficient to identify to the treasurer which property the tenderer is bidding on.

#### Step 3

In paragraph 1, the tenderer must indicate, first in figures and then in writing, the amount of the tender that is being submitted.

#### Step 4

Paragraph 2 requires the tenderer to indicate the last date upon which the tender must be submitted.

**STEP 5**

3. I/we enclose a deposit in the form of a certified cheque/bank draft/money order for the sum of \$\_\_\_\_\_

(\_\_\_\_\_ dollars) in favour of the \_\_\_\_\_

Name of Municipality or Board

representing 20 per cent or more of the tendered amount which will be forfeited if I/we are the successful tenderers and I/we do not pay the balance of the tendered amount, any land transfer tax and any accumulated taxes within fourteen calendar days of the treasurer notifying me/us that I/we are the highest tenderer.

This tender is submitted pursuant to the *Municipal Tax Sales Act, 1984* and the Municipal Tax Sales Rules.

**STEP 6**

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Name of Tenderer

Name of Tenderer

Address of Tenderer

Address of Tenderer

### Step 5

The tenderer will be required to enter first in writing and then in figures, the amount of the deposit. The deposit must be at least 20% of the amount tendered for the property.

The tenderer must also insert the name of the municipality to which the deposit is made.

### Step 6

The tenderer is required to enter the place at which the tender was completed and the date and year in which it was completed.

The tenderer must enter his or her name and address and sign the form in the space provided. There is room for another signature and address should the tender be a joint one.

Form 8  
Tender to Purchase  
*Municipal Tax Sales Act, 1984*

STEP 1

To: Name:

Address:

Telephone:

Re: Sale Of: (description of land)

STEP 2

STEP 3

1. I/we hereby tender to purchase the land described above for the amount of \$\_\_\_\_\_ (\_\_\_\_\_ dollars) in accordance with the terms and conditions of the *Municipal Tax Sales Act, 1984* and the Municipal Tax Sales Rules.

STEP 4

2. I/we understand that this tender must be received by the Treasurer's Office not later than 3:00 p.m. local time on \_\_\_\_\_ 19\_\_\_\_\_, and that in the event of this tender being accepted, I/we shall be notified of its acceptance.

STEP 5

3. I/we enclose a deposit in the form of a certified cheque/bank draft/money order for the sum of \$\_\_\_\_\_ (\_\_\_\_\_ dollars) in favour of the \_\_\_\_\_  
Name of Municipality or Board  
representing 20 per cent or more of the tendered amount which will be forfeited if I/we are the successful tenderers and I/we do not pay the balance of the tendered amount, any land transfer tax and any accumulated taxes within fourteen calendar days of the treasurer notifying me/us that I/we are the highest tenderer.

This tender is submitted pursuant to the *Municipal Tax Sales Act, 1984* and the Municipal Tax Sales Rules.

STEP 6

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Name of Tenderer

Name of Tenderer

Address of Tenderer

Address of Tenderer



## POINTS TO CONSIDER

### Sale by Public Tender

When conducting a sale by tender the treasurer should consider some of the following points;

- the sale must be undertaken in accordance with the rules established by Regulation 444/85;
- the advertisement of the sale must be completed in Form 7;
- the treasurer must allow at least seven days from the date of the last advertisement or posting of the notice for the submission of tenders;
- the date and time must be stamped on the outside of each tender envelope when it comes into the treasurer's possession;
- the tender opening must be done in a public place at which any member of the public may attend;
- the treasurer must reject all but the two highest tenders;
- if no tender is equal to or greater than the cancellation price then the municipality or board will obtain title to the land;
- in order to obtain title to the land where there is no successful purchase the treasurer must register a notice of vesting in the appropriate land registry office;
- a successful purchaser is a person who pays the sale price as well as the land transfer tax applicable to the sale price, and any accumulated taxes to the municipality or board;



- if the items in No. 9 are not paid within 14 days of the person being notified of their successful tender, they cannot be declared the successful purchaser;
- where two or more tenders are in the same amount, the highest tender is the one that was received the earliest by the treasurer;
- the treasurer does not have to determine the value of the land prior to the sale;
- all but the two highest tenders equal to or greater than the cancellation price must be rejected by the Treasurer.

### **SALE BY PUBLIC AUCTION**

Should the treasurer decide to undertake sale proceedings by public auction the treasurer must follow the rules as set out in Ontario Regulation 444/85. The use of auctioning does not preclude the treasurer from going to the public tendering method for a subsequent sale.

### **ADVERTISEMENT CONTENTS**

The treasurer is required to advertise the land in the prescribed form (Form 9). The advertisement must contain as a minimum the following information;

- the cancellation price calculated as of the first day for advertising the land for sale. The minimum acceptable bid for the land has to be indicated in the advertisement as the cancellation price;
- the place, date and time of the auction must be included in the advertisement.

## **ADVERTISING MORE THAN ONE PROPERTY**

### **Rule 12(3)**

The treasurer may advertise more than one property for sale in the same advertisement. If there were four parcels of land to be sold they may all be listed and described in the same advertisement.

## **TIME OF AUCTION**

### **Rule 12(1)**

The treasurer must allow at least seven days after the publication of the last advertisement in the Ontario Gazette or newspaper, or, where there is no newspaper, the posting of the notice before the auction can be held.

## **PLACE OF AUCTION**

### **Rule 12(2)**

The rules allow the treasurer to hold the auction at any place in the metropolitan municipality, district municipality, regional municipality, or county or district in which the municipality is situate. The treasurer must state the site of the sale in the advertisement.

If the treasurer is of the opinion that a larger potential purchasing group could be organized if the auction was held, for example, in the county seat, this would be acceptable.

## **AUCTIONEER**

### **Rule 13(1)**

The auctioneer may be the treasurer or any other person that the treasurer names. If the treasurer prefers to retain a professional auctioneer the treasurer may do so. If the treasurer wishes to conduct the auction personally, this is also acceptable.

## DUTIES OF THE AUCTIONEER

### Rule 13(2), 14

The auctioneer is required to conduct the sale in a manner set out in the Rules.

#### Opening the Auction

The auctioneer must open the auction by declaring the tax sale open and must at this point read out loud rules 14, 15, 16, and 17.

#### Conducting the Auction

The auctioneer is required for each parcel to:

- state the minimum bid as described in the advertisement, in opening or re-opening the bidding on a parcel;
- acknowledge each bidder, repeat each bid made and call for higher bids; and
- if no higher bid is made, repeat the last bid three times and if there is still no higher bid offered, acknowledge the highest bidder.

## DECLARING THE SUCCESSFUL PURCHASER

### Rule 15

The highest bidder who immediately pays the amount bid, the applicable land transfer tax and any accumulated real property taxes to the auctioneer, shall be declared to be the successful purchaser of the land.

The payment must be made to the auctioneer immediately and must be in cash.

## **RE-OPENING THE BIDDING**

### **Rule 16**

Should the highest bidder fail to comply with the payment requirements as set out above, and if the bidding has not previously been re-opened on the parcel of land, the auctioneer is bound to re-open the bidding.

## **MUNICIPALITY RECEIVES TITLE**

### **Rule 17**

If there is no successful purchaser either at the opening or re-opening of the bidding or if no bid is made on the land, then the treasurer must forthwith register in the appropriate land registry office, a notice of vesting in the name of the municipality.

Upon registration of the notice the municipality will receive title to the land free and clear except for those interests that are protected under the Act, such as the interests of the Crown.

## **AUCTIONEER'S RECEIPT**

### **Rule 18**

If there is a successful purchaser at the auction, the auctioneer is required to provide to the purchaser a receipt for all of the amounts received. The amount includes the purchase price, land transfer tax and any accumulated taxes paid by the purchaser.

The receipt must contain a legal description of the land sold, the name of the purchaser, and the name of the person or party in which the tax deed will be registered.

## **CLOSING THE AUCTION**

### **Rule 19**

Once all of the parcels of land that were advertised for sale have been offered for sale the auctioneer must declare the auction closed.

Form 9  
**Sale of Land By Public Auction**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

The \_\_\_\_\_  
Name of Municipality or Board

**STEP 2**

**Take Notice** that the land(s) described below will be offered for sale by public auction at \_\_\_\_\_ o'clock in the  
\_\_\_\_\_ noon on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

Description of Land(s)

**STEP 3**

**STEP 4**

**Minimum Bid \$**  
(Set out the cancellation price  
as of the first day of advertising)

All amounts payable by the successful purchaser shall be payable in full at the time of the sale by cash or money order or by a bank draft or cheque certified by a bank, trust company or Province of Ontario Savings Office.

The municipality makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rest with the potential purchasers.

This sale is governed by the *Municipal Tax Sales Act, 1984*, and the *Municipal Tax Sales Rules*. The successful purchaser will be required to pay the amount bid plus accumulated taxes and the relevant land transfer tax.

## AUCTIONEER'S LIST

### Rule 20

Rule 20 requires the auctioneer to make and retain a list that shows each parcel of land offered for sale and the name and address of the successful purchaser, if there is one. If there is no successful purchaser the name of the municipality or board must be recorded.

## COMPLETING THE AUCTION ADVERTISEMENT

### Prescribed Form 9

The treasurer is required to provide certain information that is pertinent to the sale of the land by public auction in the advertisement.

#### Step 1

Enter the full corporate name of the municipality or board, in capital letters.

#### Step 2

Complete the information in paragraph 2 that sets out the time and date of the sale, whether it will be held in the "forenoon" or "afternoon" and the place where the auction is to be held.

#### Step 3

Enter a description of the land(s) sufficient to identify to the potential purchasers exactly which parcels are being sold. In many instances, the street or concession address should be sufficient.

#### Step 4

For each piece of land that is being offered for sale the treasurer must provide the amount of the minimum bid that will be allowed. The minimum bid is the cancellation price as of the first day of advertising.



For further information regarding this sale, contact: *STEP 5*

Title

Name of Municipality or Board

Address of Municipality or Board



### Step 5

The municipal or board official completing the advertisement must sign it and indicate his or her title. The name and address of the municipality or board must also be provided. With this information any person who may have a question regarding the sale should be able to contact the appropriate official.

Form 9  
Sale of Land By Public Auction  
Municipal Tax Sales Act, 1984

STEP 1

The \_\_\_\_\_  
Name of Municipality or Board

STEP 2

Take Notice that the land(s) described below will be offered for sale by public auction at \_\_\_\_\_ o'clock in the  
\_\_\_\_\_ noon on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

Description of Land(s)

STEP 3

STEP 4

Minimum Bid \$  
(Set out the cancellation price  
as of the first day of advertising)

All amounts payable by the successful purchaser shall be payable in full at the time of the sale by cash or money order or by a bank draft or cheque certified by a bank, trust company or Province of Ontario Savings Office.

The municipality makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rest with the potential purchasers.

This sale is governed by the *Municipal Tax Sales Act, 1984*, and the *Municipal Tax Sales Rules*. The successful purchaser will be required to pay the amount bid plus accumulated taxes and the relevant land transfer tax.

For further information regarding this sale, contact: STEP 5

Title	Name of Municipality or Board
-------	-------------------------------

Address of Municipality or Board

## POINTS TO CONSIDER

### Sale by Public Auction

When conducting a sale by public auction the treasurer should consider the following points;

- the sale must be undertaken in accordance with the rules;
- the advertisement of the sale has to be completed in prescribed form (Form 9);
- the treasurer must wait at least seven days after the publication of the last advertisement in the Ontario Gazette or newspaper, or the posting of the notice where there is no newspaper, before the sale can occur;
- the treasurer is under no obligation to determine the value of the land before conducting the sale;
- the place of the auction may be in the municipality or at a place in metropolitan, regional or district municipality, the county or district in which the municipality is situate. The decision is the treasurer's;
- the treasurer may be the auctioneer or may name some other person to conduct the sale;
- the highest bidder is the successful purchaser if the bidder pays the accumulated taxes, if any, and the land transfer tax, and the sale price (which must be equal to or greater than the cancellation price);
- the minimum bid is the cancellation price;

- if no bid or no bid equal to or greater than the cancellation price is received the municipality will receive title to the land by registering a notice of vesting;
- if there is a successful bid but the bidder fails to pay the accumulated taxes or the land transfer tax the bidding must be re-opened and if there still is no successful purchaser the treasurer must register a notice of vesting and the municipality receives title to the land;
- the auctioneer must issue a receipt to the successful bidder upon payment;
- payment must be in cash, and must be made immediately after the sale of that land has concluded.

### GENERAL RULES

#### For

#### Sale by Public Auction or Public Tender

### TREASURER'S AUTHORITY

#### Rule 21

The rules provide the treasurer with the authority to cancel the sale of the land whether it be by auction or tender, if in the treasurer's opinion it is impractical or unfair to the bidders or tenderers to complete the sale. The sale may be commenced again according to the procedures established under the Act and the Rules.

### CANCELLING A TENDER SALE

#### Rule 21(2)

Where a sale by public tender is cancelled, the treasurer must open the sealed envelopes and return the tenders together with the deposits to the tenderers. The treasurer must also prepare and include a statement that sets out the reasons for the cancellation of the sale.

If the sale is cancelled after the opening of the tenders, the treasurer must send the tenderers any deposits and a statement explaining the reasons for the return to every person who submitted a tender for the sale.

### **TAX DEED**

#### **Rule 22**

The treasurer has the responsibility for preparing and registering, as soon as possible, the tax deed in the appropriate land registry office if there is a successful purchaser.

### **NOTICE OF VESTING**

#### **Rule 22**

If there is no successful purchaser ( where the bids or tenders are lower than the advertised cancellation price, or where no payment has been received within the required time periods ), the treasurer must make and register a notice of vesting as soon as possible after the sale.

### **METHOD OF PAYMENT**

#### **Rule 23**

Except where a deposit accompanies a tender any payment that is required to be made in cash may be made by way of cash or money order or by bank draft or certified cheque of a bank, trust company or Province of Ontario Savings Office.

### **FORFEITED DEPOSITS**

#### **Rule 24**

Any deposits that are forfeited to the municipality must be directed to and form part of the municipality's general funds.

### **CALCULATION OF LAND TRANSFER TAX**

If there has been a successful tender or auction bid at a public sale, the purchaser must also pay the land transfer tax applicable to the sale price.

## RESIDENT PURCHASER

Should a Canadian resident buy the land he or she will be required to pay to the municipal treasurer the correct amount of the land transfer tax. The tax is calculated at a rate of 0.5 percent of the sale price up to and including \$55,000 and 1.0 percent upon the remainder of the sale price, if any. An additional 1/2 of one percent is charged on that portion of the purchase price in excess of \$250,000, where the sale is a single parcel of land containing one, but not more than two, single family residences. Apartment buildings and other residential units are exempt from this additional 0.5 percent tax.

## NON-RESIDENT PURCHASER

A non-resident person is generally:

- an individual who:
  - a. has not been lawfully admitted to Canada for permanent residence; or
  - b. has not sojourned in Canada for 366 days or more during the immediately preceding 24 months.
- a corporation which is non-resident;
- a trust if one-half or more of the beneficial interest in the trust is held by non-resident persons;
- a partnership, syndicate or association if:
  - a. one-half or more of the members are non-resident; or
  - b. interest representing one-half or more of the total property is held by non-residents.

A corporation is considered non-resident if:

- non-resident persons own shares accounting for one-half or more of:
  - a. the votes generally exercisable at meetings of the corporation;
  - b. the rights to participate in a distribution of surplus capital;or



- c. the paid-up capital;
- one-half or more of the directors are non-resident persons;
- one-half or more of the members of a corporation without share capital are non-resident persons; or
- one or more non-resident persons directly or indirectly control the company.

Please refer to the Land Transfer Tax Act for the exact wording.

## NON-RESIDENT RATES

### Unrestricted Land

Non-residents who purchase unrestricted lands pay the same rates as do resident purchasers (0.5% to and including \$55,000, 1.0% on the remainder up to \$250,000). An additional 0.5% is charged on that portion of the sale price in excess of \$250,000 where the sale is a single parcel of land containing one, but not more than two single family residences.

Unrestricted land includes all land zoned for commercial or industrial use, land having a residential assessment and land that is, or was last, lawfully used for commercial industrial or residential purposes.

### Restricted Land

A non-resident person who buys land that is not unrestricted pays land transfer tax at the rate of 20.0% of the sale price. Non-unrestricted land includes land assessed or used as agricultural land, woodland and orchards, or recreational land.



## DEFERRALS AND EXEPTIONS

Certain exemptions and deferrals from the difference between the tax calculated at the standard resident rates and the tax calculated at 20% are provided for. Please refer to the Land Transfer Tax Act or contact:

Ministry of Revenue  
Land Transfer Tax Section  
Motor Fuels and Tobacco Tax Branch  
P. O. Box 625  
33 King St. West  
Oshawa, Ontario  
L1H 8H9  
Telephone: (416) 433-6369





## Chapter 14

### TAX DEEDS / NOTICE OF VESTING

#### TREASURER'S RESPONSIBILITY

s.9(3)(a,b)

The treasurer is required to complete and register a tax deed or a notice of vesting, whichever is appropriate in the circumstances.

#### USING DEED OR NOTICE

The deed is issued where, at a public sale of land, there is a successful purchaser. The treasurer must make the deed out in the name of the person that the successful purchaser directs. The name on the deed may therefore be different from that of the successful purchaser.

A notice of vesting is completed and registered where at a public sale there is no successful purchaser of the land. The notice is completed in the name of the municipality.

#### EFFECT OF DEED OR NOTICE

s.9(5)

Upon registration of either the deed or the notice, the title to the land is transferred and is final and binding in the name of the person or municipality.

The tax deed vests in the person named or the municipality or board in the case of a notice of vesting, an estate in fee simple together with all rights, privileges and appurtenances.

The title is free and clear of all estates and interest except for those specifically protected under the Act.

If, for example, there happens to be a first mortgage or a mechanic's lien on the property, upon registration of the deed or notice they would be extinguished. If an institution had a mortgage on the property and did not pay the cancellation price before the expiry of the redemption year and a public sale occurred and they were not the successful purchaser, then they would lose their interest (mortgage) in the land.

## **LIMITATIONS**

s.9(5)(a,b,c,)

The Act specifically protects certain interests in the land from being extinguished at the time of the registration of the tax deed or notice of vesting. The following items are protected:

- easements and restrictive covenants that run with the land;
- any estates and interests of the Crown both federally and of Ontario;
- any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed or notice of vesting.

## **PROTECTION FOR MUNICIPALITIES**

s. 9(7)

### **Vacant**

When the treasurer issues and registers a tax deed the municipality is not required to provide vacant possession for the property. The municipality is under no obligation to ensure that any persons living on a property vacate before or after a sale of the land.

### **Rates**

The registration of the deed does not affect the collection of any rate that has been assessed or imposed or charged on the land under any Act by the municipality before the registration of the deed. Nor does it affect

the collection of a rate that accrues or becomes due after the registration of the deed.

## MINING RIGHTS

### s.14

Where land that is liable to a tax imposed under the Mining Act or a predecessor of that Act, is sold or vested under the Municipal Tax Sales Act, 1984, an automatic severance of the surface rights from the mining rights is created.

A purchaser who is successful at a tax sale will receive only the surface rights to the land and will not receive the mining rights.

### **Severance of Mining Rights, Prior to Municipal Tax Sales Act, 1984**

The Ministry of Natural Resources required that certain municipalities whose lands were subject to a tax under the Mining Act to submit to their Land Management Branch every tax arrears certificate that was registered under the Municipal Affairs Act and every conveyance of land that was sold in accordance with the Municipal Act. The Ministry then placed a stamp on the document to indicate whether a tax had been imposed and whether the surface rights were severed from the mining rights.

### **New Procedure**

Under section 14 of the Municipal Tax Sales Act, 1984, the Ministry of Natural Resources continues to monitor the severance of mining rights from the surface rights for land that is subject to the tax under the Mining Act. For land sold after April 1, 1954, an automatic severance of the surface rights from the mining rights is created. Only the surface rights in the land pass to the tax sale purchaser or vest in the municipality.

Those municipalities that are subject to obtaining the Ministry's approval will continue to have to submit documents to the Land Management Branch.

### **Approvals for Tax Deed and Notice of Vesting for Land Subject to Mining Tax**

Under the previous tax registration system the required municipalities (through the Ministry of Municipal Affairs) had to send in the tax arrears certificates to the Ministry of Natural Resources. This has been changed. Under the new procedures municipalities will have to directly submit either the tax deed or notice of vesting to the Ministry of Natural Resources.

### **No Stamp**

The Ministry staff will no longer apply their stamp to the documents. On each of the tax deed and notice of vesting preprinted information will be included on the forms. Ministry staff will sign and check the appropriate boxes and sign the form if the land is subject to the tax and the severance of the surface rights from the mining rights.

### **Number of Copies**

The treasurer should send at least two copies of the forms to the Ministry.

### **MNR Signatures Prior to Registration**

The treasurer will have to obtain the Ministry's signature, where appropriate, prior to registering the tax deed or notice of vesting in the land registry office.

The treasurer should submit the documents to:



Land Management Branch  
Titles Section,  
Ministry of Natural Resources,  
Whitney Block,  
Room 6645,  
99 Wellesley Street West,  
Toronto, Ontario  
M7A 1W3

### Municipalities Required to Submit Documents

The following municipalities are required by Ontario Regulation to send their tax deeds and notices of vesting to the Ministry of Natural Resources.

#### County, District etc.

County of Frontenac

#### Municipalities

Townships of Barrie  
Bedford  
Clarendon and Miller  
Hinchinbrooke  
Kennebec  
Loughborough  
Olden  
Palmerston and  
North and South Canonto  
Portland  
Storrington

County of Haliburton

All

County of Hastings

Townships of Dungannon  
Elzevir and Grimsthorpe  
Faraday  
Herschel  
Hungerford

	Huntingdon
	Limerick
	Madoc
	Marmora and Lake
	Mayo
	Monteagle
	Rawdon
	Tudor and Cashel
	Wollaston.
County of Lanark	Townships of Bathurst
	Darling
	Lavant, Dalhousie and
	North Sherbrooke
	North Burgess.
County of Leeds	Township of Bastard and South Burgess.
County of Lennox and Addington	Townships of Abinger and Ashby
	Anglesea and Effingham
	Denbigh
	Kaladar
	Sheffield.
County of Northumberland	Township of Seymour.
County of Peterborough	Townships of Belmont and Methuen
	Burleigh and Anstruther
	Chandos
	Galway and Cavendish
	Harvey.
County of Renfrew	Townships of Admaston
	Alice and Fraser
	Bagot and Blithfield
	Brougham

	Brudenell and Lyndoch Grattan Griffith and Matawatchan Hagarty and Richards Raglan Ross Sebastopol.
County of Victoria	Townships of Digby Laxton and Longford Somerville.
The Regional Municipality of Haldimand-Norfolk	Town of Haldimand
District of Algoma	All
District of Cochrane	All
District of Kenora	All
District of Manitoulin	Townships of Assingack Howland
The District Municipality of Muskoka	Townships of Georgian Bay Lake of Bays Muskoka Lakes.
District of Nipissing	All
District of Parry Sound	Town of Kearney Townships of The Archipelago Armour Carling Chapman

	Foley
	North Himsworth
	South Himsworth
	Humphrey
	McDougall
	McKellar
	McMurrich
	Nipissing
	Ryerson
	Strong
District of Rainy River	All
District of Sudbury	All (including all local municipalities in the Regional Municipality of Sudbury).
District of Thunder Bay	All
District of Timiskaming	All

#### TREASURER'S STATUTORY DECLARATION

s. 9(6)

Once the sale has occurred and when the tax deed or the notice of vesting has been completed, the treasurer is also required to make and register a statutory declaration. The declaration is the second part of the schedule to the forms containing the tax deed and the notice of vesting.

The reason and the effect for the declaration is to state on the title, that the treasurer has complied with the requirements of the Act. The declaration sets out that:

- the tax arrears certificate was properly registered at least one year before the sale of the land occurred;

- notices were properly sent and the required statutory declarations were registered;
- the cancellation price was not paid within one year following the date of the registration of the tax arrears certificate;
- the land was properly advertised for sale; and
- no extension agreement was entered into prior to the expiry of the redemption year.

### COMBINATION OF FORMS

The statutory declaration required under subsection 9(6) has been incorporated in both the tax deed and the notice of vesting. The treasurer should complete both the declaration and the deed or notice at the same time.

### COMPLETING THE DEED AND DECLARATION

#### Prescribed Form 10

The deed and the declaration should be completed by the treasurer as soon as possible after the sale of the land has occurred. The deed and declaration are attached to Form 10 as a schedule.

The treasurer must complete Form 10 when the land is sold. The following information should be included on the tax deed and the statutory declaration:

Form 10 — Municipal Tax Sales Act, 1984  
**Transfer/Deed of Land**  
Form 1 — Land Registration Reform Act, 1984

**A**

FOR OFFICE USE ONLY		(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of      pages
		(3) Property Identifier(s)	Block      Property	Additional: See Schedule <input type="checkbox"/>
		(4) Consideration		
		Dollars \$		
		(5) Description This is a:	Property Division <input type="checkbox"/>	Property Consolidation <input type="checkbox"/>
	New Property Identifiers	Additional: See Schedule <input type="checkbox"/>		
	Executions	Additional: See Schedule <input type="checkbox"/>		

#### Step 1 - Box 1

Mark with an "X" whether the land is registered in registry or land titles system.

#### Step 2 - Box 2

The treasurer will have to indicate the number of pages that constitute the form. If a schedule is required for the description, add the number of pages of the schedule to the total number of pages that make up the deed and declaration.

#### Step 3 - Box 3

If property identifiers have been assigned by the land registry office to the land, enter them in this box. Only a maximum of two should be entered here. If there are more than two mark the "Additional See Schedule" box with an "X" and attach the schedule. If none have been assigned, leave this box blank.

#### Step 4 - Box 4

Enter the amount of money that the property was sold for. The amount must first be typed or written in the space provided and then the amount must be set out in numerical fashion.

For example:

If the land was sold for \$10,000 the information set out would be as follows. Ten Thousand-----00/100 Dollars \$10,000.

#### Step 5 - Box 5

A complete legal description must be provided in box 5. If a schedule is required it may be attached to the document. Enter "SEE SCHEDULE" if one is being used.

Preambles such as "All and Singular that certain" are not required. If a metes and bounds description applies to the land, a schedule may be necessary.



<b>(6) This Document Contains</b>	(a) Redescription New Easement Plan/Sketch <input type="checkbox"/>	(b) Schedule for: Description <input type="checkbox"/>	Additional Parties <input type="checkbox"/>	Other <input checked="" type="checkbox"/>	<b>(7) Interest/Estate Transferred</b> Fee Simple
<b>(8) Transferor(s)</b> The transferor hereby transfers the land to the transferee.					
.....					Date of Signature
.....					Y M D
.....					
Name of Municipality or Local Board					
.....					
.....					
Corporate Seal		Signature of Treasurer or Authorized Official			

All descriptions should begin with the parcel and section (in land titles), the part, lot or unit on the plan or concession lot. The status of the municipality or board must also be included. Should a condominium property be involved enter a reference to the land registry office in which the plan is registered.

For example:

REGISTRY:

Part of Lots 111 and 112,  
Registered Plan 1001, North York,  
City of North York.  
SEE SCHEDULE

LAND TITLES:

Parcel 99-2 Section 40M-542 Being  
Lot 2 Plan 40M-542  
Township of River,  
District of Thunder Bay.

Step 6 - Box 6b

If a schedule for a description is necessary, mark the appropriate box with an "X". The box for "Other" is preprinted with an "X" because a schedule containing the treasurer's statutory declaration is part of the document.

Step 7 - Box 7

Add a qualifier if necessary. For example, "Surface Rights Only."

Step 8 - Box 8

The transferor for the sale of the land will be the municipal corporation or the board. The treasurer or other authorized officer signs on behalf of

(9) Spouse(s) of Transferor(s) I hereby consent to this transaction		Date of Signature
Name(s)	Signature(s)	Y M D
	N/A	
	N/A	
(10) Transferor(s) Address for Service		
(11) Transferee(s)		Date of Birth
		Y M D

the corporation or board. Upon signing the document the treasurer will also enter the date when it was signed. The corporate seal must also be affixed. If there is no corporate seal available the treasurer must enter the following statement. "I (name of treasurer or other authorized officer) have the authority to bind the corporation."

For example:

	Date of Signature		
	Y	M	D
THE CORPORATION OF			
THE TOWNSHIP OF RIVER	86	12	13
.....			
Name of Municipality or Local Board			
<i>John M. Doe</i>			
.....	.....		
Corporate Seal	Signature of Treasurer or Authorized Officer		

Step 9 - Box 10

The municipality or board's address including the postal code, must be completed.

For example: Box 101, 11 Center Street, River, Ontario. M7B 1C3

Step 10 - Box 11

Enter the transferee(s) name in this box. The purchaser, or such person named by the purchaser, is the transferee.

For example:

Harvey Brown Investments Limited  
or  
Smith, John Albert  
Smith, Janet Louise - (as joint tenants)

<b>(12) Transferee(s) Address for Service</b>												
Planning Act — OPTIONAL	<b>(13) Transferor(s)</b> The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 49 of the Planning Act, 1983.											
					Date of Signature		Date of Signature					
					Y   M   D		Y   M   D					
	Signature _____ N/A _____				Signature _____ N/A _____							
	<b>Solicitor for Transferor(s)</b> I have explained the effect of section 49 of the Planning Act, 1983 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing.											
	Name and Address of Solicitor _____ N/A _____				Signature _____ N/A _____							
	<b>(14) Solicitor for Transferee(s)</b> I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 49 (21a) (c) (ii) of the Planning Act, 1983 and that to the best of my knowledge and belief this transfer does not contravene section 49 of the Planning Act 1983. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.											
	Name and Address of Solicitor _____ N/A _____				Date of Signature _____ Y   M   D							
					Signature _____ N/A _____							
<b>(15) Assessment Roll Number of Property</b>					Cty.	Mun.	Map	Sub.	Par.	FOR OFFICE USE ONLY	<b>Fees and Tax</b>	
<b>(16) Municipal Address of Property</b>					<b>(17) Document Prepared by:</b>						Registration Fee	
											Land Transfer Tax	
										<b>Total</b>		

### Step 11 - Box 12

The treasurer will be required to enter the transferee's address for service in this box.

For example: 10 Hardboard Road, River, Ontario. N0P 1M0

Sometimes this box will contain the name and address of the transferee's solicitor.

### Step 12 - Box 15

Enter the assessment roll number of the property.

### Step 13 - Box 16

Enter the municipal address of the land that is being transferred, if there is one. The address should be set out in the following manner: the street number, suffix if there is one, the street name, unit type, unit number, municipality and the postal code.

For example:

21 South Street,  
River, Ontario.  
N0P 4M0

If no municipal address has been assigned to the property, enter "NOT ASSIGNED."

### Step 14 - Box 17

Box 17 provides space for entering the name and address of the person who actually completed the document. If it was the treasurer, enter the treasurer's name, title and address. If a solicitor completed the form,

## Schedule

**Additional Property Identifier(s) and/or Other Information**

**Tax Deed**

**TAKE NOTICE** that by virtue of the *Municipal Tax Sales Act, 1984*, the registration of this document vests in the person named in box 11

- (a) an estate in fee simple in the land described in the document, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,
  - (i) easements and restrictive covenants that run with the land,
  - (ii) any estates and interests of the Crown in right of Canada or in right of Ontario, and
  - (iii) any interest or title acquired by adverse possession by abutting landowners before registration of this document.
- (b) any interest in or title to adjoining land acquired by adverse possession before the registration of this document if the person originally acquiring the interest or title did so as a consequence of possession of the land described in this document.

**STEP 15**

Dated this ..... day of ..... 19 .....

.....  
(Treasurer or Other Authorized Employee)

.....  
(Name of Municipality or Board)



enter the solicitor's name and full address. The name of the solicitor's firm should be entered as well.

For example:

John M. Doe  
Treasurer,  
Township of River,  
Box 101,  
11 Center Street  
River, Ontario.  
M7B 1C3

or

Bill Batch  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario.  
N0P 2B3

#### Step 15 - Schedule - Tax Deed

The treasurer must enter the date when the deed is completed. The treasurer must then sign in the space provided and complete the name of the municipality or board.

For example:

Dated this.....12.....day of .....March ....19.....86.....

.....John Doe.....

(Treasurer or Other Authorized Employee)

..... The Corporation of the Township of River .....

(Name of Municipality or Board)

## Statutory Declaration

### STEP 16

I, ....., Treasurer (or other authorized employee) of the .....  
of ..... in the ..... of .....  
do solemnly declare as follows:

- This statutory declaration relates to the land described in this document.
- A tax arrears certificate was registered with respect to the land at least one year before the said land was advertised for sale.
- Notices were sent and statutory declarations were registered in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.
- The cancellation price was not paid within one year following the date of the registration of the tax arrears certificate.
- There was no subsisting extension agreement when the land was advertised for sale.
- The land was advertised for sale in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at .....

this ..... day of ..... 19.....

.....  
A Commissioner

.....  
Treasurer or Other Authorized Employee

FOR OFFICE  
USE ONLY

### Ministry of Natural Resources (to be completed in certain municipalities)

The land described in this document ☐ is/ ☐ not  
liable to a tax imposed under the *Mining Act* and,  
therefore, pursuant to s. 14 of the *Municipal Tax Sales  
Act, 1984*, the registration of this document ☐ does/  
☐ not create a severance of the surface rights from  
the mining rights.

### STEP 17

.....  
Authorized Ministry of Natural Resources Employee

### Step 16 - Schedule - Statutory Declaration

The second part of the schedule is the treasurer's statutory declaration. The declaration states out that the proper procedure was followed. The treasurer, declares by his or her signature, that this is so.

When completing the declaration the treasurer must enter his or her name, the municipality or board for which the treasurer is completing the form, and the county, district or region etc. in which the municipality or board is situate. The declaration must be declared before a commissioner. The place of the declaration and the date it was made must be shown. Finally, both the commissioner and the treasurer or other authorized officer must sign in the appropriate places.

For example:

I,..... **John Doe...**, Treasurer (or other authorized employee) of the  
.....**Township...of....River...**in the....**District...of ....Thunder Bay.....**

Declared before me at.....**River**, ..... **Ontario.....** this....**13.....**  
day of .....**December.....19..86.**

.....**Bob Deer.....**  
A Commissioner etc.

.....**John Doe.....**  
Treasurer or Other  
Authorized Employee

### Step 17 - Ministry of Natural Resources

For those municipalities that are required to submit the tax deed to the Ministry of Natural Resources for their approval (regarding the severance of mining rights from surface rights), check to ensure that this box is completed by MNR.

The Ministry will check the appropriate boxes and sign in the space provided.

Form 10 — Municipal Tax Sales Act, 1984  
**Transfer/Deed of Land**  
Form 1 — Land Registration Reform Act, 1984

A

FOR OFFICE USE ONLY	New Property Identifiers <div style="text-align: right;">Additional: See Schedule <input type="checkbox"/></div>  Executions <div style="text-align: right;">Additional: See Schedule <input type="checkbox"/></div>		(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of      pages
			(3) Property Identifier(s)      Block      Property <div style="text-align: right;">Additional: See Schedule <input type="checkbox"/></div>		
			(4) Consideration <div style="text-align: right;">Dollars \$</div>		
			(5) Description This is a:      Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/>		
			(6) This Document Contains      (a) Redescription New Easement Plan/Sketch <input type="checkbox"/> (b) Schedule for:      Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/> (7) Interest/Estate Transferred Fee Simple		
(8) Transferor(s) The transferor hereby transfers the land to the transferee. <div style="text-align: right;">Date of Signature Y   M   D</div> Name of Municipality or Local Board  Corporate Seal      Signature of Treasurer or Authorized Official					
(9) Spouse(s) of Transferor(s) I hereby consent to this transaction Name(s)      Signature(s)      Date of Signature Y   M   D N/A N/A					
(10) Transferor(s) Address for Service					
(11) Transferee(s)      Date of Birth Y   M   D					
(12) Transferee(s) Address for Service					
(13) Transferor(s) The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 49 of the Planning Act, 1983. Signature      N/A      Signature      N/A      Date of Signature      Y   M   D      Date of Signature      Y   M   D Solicitor for Transferor(s) I have explained the effect of section 49 of the Planning Act, 1983 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing. Name and Address of Solicitor      N/A      Signature      N/A      Date of Signature					
(14) Solicitor for Transferee(s) I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 49 (21a) (c) (ii) of the Planning Act, 1983 and that to the best of my knowledge and belief this transfer does not contravene section 49 of the Planning Act 1983. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing. Name and Address of Solicitor      N/A      Signature      N/A      Date of Signature Y   M   D					
(15) Assessment Roll Number of Property      Cty.      Mun.      Map      Sub.      Par.					
(16) Municipal Address of Property      (17) Document Prepared by:					
Fees and Tax Registration Fee Land Transfer Tax   Total					



**Additional Property Identifier(s) and/or Other Information**

**Tax Deed**

**TAKE NOTICE** that by virtue of the *Municipal Tax Sales Act, 1984*, the registration of this document vests in the person named in box 11

- (a) an estate in fee simple in the land described in the document, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,
  - (i) easements and restrictive covenants that run with the land,
  - (ii) any estates and interests of the Crown in right of Canada or in right of Ontario, and
  - (iii) any interest or title acquired by adverse possession by abutting landowners before registration of this document.
- (b) any interest in or title to adjoining land acquired by adverse possession before the registration of this document if the person originally acquiring the interest or title did so as a consequence of possession of the land described in this document.

**STEP 15**

**Ministry of Natural Resources**  
(to be completed in certain municipalities)

The land described in this document ☐ is/ ☐ not liable to a tax imposed under the *Mining Act* and, therefore, pursuant to s. 14 of the *Municipal Tax Sales Act, 1984*, the registration of this document ☐ does/ ☐ not create a severance of the surface rights from the mining rights.

**STEP 17**

Dated this ..... day of ..... 19 .....

.....  
(Treasurer or Other Authorized Employee)

.....  
(Name of Municipality or Board)

.....  
Authorized Ministry of Natural Resources Employee

**Statutory Declaration**

**STEP 16**

I, ....., Treasurer (or other authorized employee) of the .....  
of ..... in the ..... of .....  
do solemnly declare as follows:

- This statutory declaration relates to the land described in this document.
- A tax arrears certificate was registered with respect to the land at least one year before the said land was advertised for sale.
- Notices were sent and statutory declarations were registered in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.
- The cancellation price was not paid within one year following the date of the registration of the tax arrears certificate.
- There was no subsisting extension agreement when the land was advertised for sale.
- The land was advertised for sale in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at .....

this ..... day of ..... 19 .....

.....  
A Commissioner

.....  
Treasurer or Other Authorized Employee

FOR OFFICE  
USE ONLY

Form 11 — Municipal Tax Sales Act, 1984  
**Document General**  
Form 4 — Land Registration Reform Act, 1984

**D**

(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of . pages
(3) Property Identifier(s)	Block	Property Additional: See Schedule <input type="checkbox"/>
(4) Nature of Document <b>Notice of Vesting/Statutory Declaration</b> Form 11 — <i>Municipal Tax Sales Act, 1984</i>		
(5) Consideration _____ N/A _____ Dollars \$ _____ N/A _____		

## COMPLETING THE NOTICE AND DECLARATION

### Prescribed Form 11

Should the treasurer conduct a tax sale through either the tendering or auctioning process, and end up with no successful purchaser, the treasurer is required to make and register a notice of vesting and a statutory declaration in the prescribed form.

The treasurer should include the following information:

#### Step 1 - Box 1

Mark with "X" whether the land is registered in the land titles or registry system.

#### Step 2- Box 2

In the blank space provided enter the total number of pages that make up the document. There will be two pages unless further schedules are required for a description of the land. If there are additional pages, enter the total number in the appropriate space.

#### Step 3 - Box 3

If property identifiers have been assigned to the land, enter them in box 3. Only a maximum of two should be entered here. If there are more than two mark the "Additional See Schedule" box with an "X" and attach the schedule. If no identifiers are assigned, leave the box blank.

#### Step 4 - Box 5

Do not enter anything in this Box. There is no consideration involved because the municipality or board could not find a successful purchaser.



New Property Identifiers

Additional:  
See  
Schedule ☐

Executions

Additional:  
See  
Schedule ☐

(6) Description

(7) This  
Document  
Contains:

(a) Redescription  
New Easement  
Plan/Sketch ☐

(b) Schedule for:  
Description ☐ Additional  
Parties ☐ Other ☒

### Step 5 - Box 6

Box 6 provides space to enter a legal description of the land. If a metes and bounds description is involved a schedule may be necessary. If a schedule is required, enter "SEE SCHEDULE" after setting out a brief legal description in the box.

Preambles such as "All and Singular that certain" are not required in the description.

All descriptions should begin with the parcel and section (in land titles), the part, lot or unit on the plan or concession lot. The status of the municipality or board (township, city, etc.) must also be included in the description. Should a condominium property be involved, enter a reference to the land registry office in which the plan is registered.

For example:

#### LAND TITLES:

Parcel 99-2 Section 40M-542 Being  
Lot 2 Plan 40M-542 Township of River  
District of Thunder Bay

#### REGISTRY:

Part of Lots 111 and 112, Registered Plan  
1001, River, Ontario, Township of River  
SEE SCHEDULE

### Step 6 - Box 7b

If a schedule for a description of the land is necessary mark the description box with an "X". The box for a schedule for "Other" will be pre-typed with an "X" since the notice of vesting and the treasurer's statutory declaration form part of the document and are attached as a schedule.

**(8) This Document provides as follows:**

This document is registered pursuant to the *Municipal Tax Sales Act, 1984*. Under that statute, the municipality or board named in box 10 attempted to sell the land described in this document for arrears of taxes but could not find a successful purchaser. Accordingly, the registration of this document vests the land described herein in the municipality or board named in box 10. This document also contains a declaration attesting to the municipality's or board's compliance with the Act.

**Notes:**

- A. For further particulars regarding the title conferred by the registration of this document, see page 2 or consult s. 9 of the *Municipal Tax Sales Act, 1984*.
- B. Any inquiries relating to this matter may be directed to the municipality or board named in box 10 at the address shown in box 11.

Assessment Roll Number of Property	Cty.	Mun.	Map	Sub.	Par.
---------------------------------------	------	------	-----	------	------

Continued on Schedule ☐

**(9) This document relates to instrument number(s)**

**(10) Party(ies) (Set out Status or Interest)**  
Name(s)

Signature(s)

Date of Signature  
Y M D

**(11) Address  
for Service**

#### Step 7 - Box 8

The assessment roll number of the property must be entered in the appropriate space provided.

#### Step 8 - Box 9

Enter the instrument number that was assigned to the tax arrears certificate.

For example:

100001

#### Step 9 - Box 10

The "Party" for the purposes of the notice of vesting will be the municipal corporation or board as the case may be. The proper corporate name of the municipality or board must be entered, in capital letters. The name of the person authorized to sign on behalf of the municipal corporation or board must also be entered. The treasurer will sign the document and complete the date of signing.

#### Step 10 - Box 11

Enter the address of the municipality or board, including the postal code.

(12) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y M D
..... N/A .....		.....
.....		.....

(13) Address for Service	N/A
-----------------------------	-----

(14) Municipal Address of Property	(15) Document Prepared by:	FOR OFFICE USE ONLY	Fees and Tax	
			Registration Fee	
			Total	

#### Step 11 - Box 14

If a municipal address has been assigned to the land it must be set out in this Box. The address should be provided in the following format: the street number, suffix if there is one, street name, unit type, unit number, municipality and the postal code. If no municipal street address has been assigned, enter "NOT ASSIGNED."

For example:

14 South Street,  
River, Ontario.  
N0P 4M0  
or  
"NOT ASSIGNED"

#### Step 12 - Box 15

Box 15 provides space for entering the name and address of the person who completed the document. If it was the treasurer, enter the treasurer's name, title and address. If a solicitor filled it out enter, the solicitor's name and full address. The name of the solicitor's firm should also be included.

For example:

John M. Doe  
Treasurer,  
Township of River,  
Box 101,  
11 Center Street,  
River, Ontario  
M7B 1C3  
or  
Bill Batch  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario  
N0P 2B3

**Additional Property Identifier(s) and/or Other Information**

**Notice of Vesting**

TAKE NOTICE that by virtue of the *Municipal Tax Sales Act, 1984*, the registration of this document vests in the municipality or board named in box 10

- (a) an estate in fee simple in the land described in the document, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,
  - (i) easements and restrictive covenants that run with the land,
  - (ii) any estates and interests of the Crown in right of Canada or in right of Ontario, and
  - (iii) any interest or title acquired by adverse possession by abutting landowners before registration of this document.
- (b) any interest in or title to adjoining land acquired by adverse possession before the registration of this document if the person originally acquiring the interest or title did so as a consequence of possession of the land described in this document.

**STEP 13**

Dated this ..... day of ..... 19 .....

.....  
(Treasurer or Other Authorized Employee)

.....  
(Name of Municipality or Board)

**Statutory Declaration**

**STEP 14**

I, ....., Treasurer (or other authorized employee) of the .....  
of ..... in the ..... of .....  
do solemnly declare as follows:

- This statutory declaration relates to the land described in this document.
- A tax arrears certificate was registered with respect to the land at least one year before the said land was advertised for sale.
- Notices were sent and statutory declarations were registered in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.
- The cancellation price was not paid within one year following the date of the registration of the tax arrears certificate.
- There was no subsisting extension agreement when the land was advertised for sale.
- The land was advertised for sale in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at .....

this ..... day of ..... 19 .....

.....  
A Commissioner

.....  
Treasurer or Other Authorized Employee

FOR OFFICE  
USE ONLY



### Step 13 - Schedule - Notice of Vesting

The treasurer must enter the date when the notice is completed. The treasurer must then sign in the space provided and enter the name of the municipality or board, as the case may be.

For example:

Dated this ..... 13..... day of ..... December .... 19.. 86 .....

..... John M. Doe.....

(Treasurer or Other Authorized Employee)

.....The Corporation of the Township of River.....

(Name of Municipality or Board)

### Step 14 - Schedule - Statutory Declaration

The second part of the schedule is the treasurer's statutory declaration. The declaration states that the proper procedure was followed. By his or her signature, the treasurer declares this to be so.

When completing the declaration the treasurer's name must be entered as well as the municipality or board for which the treasurer is completing the form, and the county, district or region in which the municipality or board is situate. The declaration must be declared before a commissioner. The place of the declaration and the date it was made must be shown. Finally, both the commissioner and the treasurer must sign in the appropriate places.

For example:

**Ministry of Natural Resources**  
(to be completed in certain municipalities)

The land described in this document ☐ is/ ☐ not  
liable to a tax imposed under the *Mining Act* and,  
therefore, pursuant to s. 14 of the *Municipal Tax Sales*  
*Act, 1984*, the registration of this document ☐ does/  
☐ not create a severance of the surface rights from  
the mining rights.

*STEP 15*

.....  
Authorized Ministry of Natural Resources Employee

I,..... John M. Doe..., Treasurer (or other authorized employee) of the  
.....Township...of....River...in the....District...of .....Thunder Bay.....

Declared before me at.....River, ..... Ontario..... this....13....  
day of ....December.....19..86.

....., Bob Deer.....

A Commissioner etc.

.....John M. Doe.....

Treasurer or Other

Authorized Officer

#### Step 15 - Ministry of Natural Resources

For those municipalities that are required to submit the notice of vesting to the Ministry of Natural Resources for its approval regarding severance of mining rights from surface rights, check to ensure that this box is completed by the Ministry.

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**Additional Property Identifier(s) and/or Other Information**

**Notice of Vesting**

TAKE NOTICE that by virtue of the *Municipal Tax Sales Act, 1984*, the registration of this document vests in the municipality or board named in box 10

- (a) an estate in fee simple in the land described in the document, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,
  - (i) easements and restrictive covenants that run with the land,
  - (ii) any estates and interests of the Crown in right of Canada or in right of Ontario, and
  - (iii) any interest or title acquired by adverse possession by abutting landowners before registration of this document.
- (b) any interest in or title to adjoining land acquired by adverse possession before the registration of this document if the person originally acquiring the interest or title did so as a consequence of possession of the land described in this document.

**STEP 13**

**Ministry of Natural Resources**  
(to be completed in certain municipalities)

The land described in this document ☐ is/ ☐ not liable to a tax imposed under the *Mining Act* and, therefore, pursuant to s. 14 of the *Municipal Tax Sales Act, 1984*, the registration of this document ☐ does/ ☐ not create a severance of the surface rights from the mining rights.

**STEP 15**

Dated this ..... day of ..... 19 .....

.....  
(Treasurer or Other Authorized Employee)

.....  
(Name of Municipality or Board)

.....  
Authorized Ministry of Natural Resources Employee

**Statutory Declaration**

**STEP 14**

I, ....., Treasurer (or other authorized employee) of the .....  
of ..... in the ..... of .....  
do solemnly declare as follows:

- This statutory declaration relates to the land described in this document.
- A tax arrears certificate was registered with respect to the land at least one year before the said land was advertised for sale.
- Notices were sent and statutory declarations were registered in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.
- The cancellation price was not paid within one year following the date of the registration of the tax arrears certificate.
- There was no subsisting extension agreement when the land was advertised for sale.
- The land was advertised for sale in substantial compliance with the *Municipal Tax Sales Act, 1984* and the regulations made under the Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at .....

this ..... day of ..... 19 .....

.....  
A Commissioner

.....  
Treasurer or Other Authorized Employee

FOR OFFICE  
USE ONLY









## Chapter 15

### DISTRIBUTION OF SALE PROCEEDS

If there is a successful sale of property, the treasurer is required under section 10 of the Act to deal with any remaining proceeds of the sale in a specific manner.

#### **APPLICATION OF PROCEEDS**

##### **s. 10(1)**

The treasurer must distribute the money received at the sale in the following manner:

- First, the cancellation price must be satisfied. If for example the cancellation price was \$2,500 and the sale price was \$3,500 the treasurer must use the \$2,500 to satisfy the cancellation price.

The remaining \$1,000 will be divided in the following manner;

- To all persons, other than the owner, having an interest in the land according to their priority at law. Note that the court will make this determination and not the treasurer, and
- Finally, to the person who immediately before the registration of the tax deed was the owner of the land if any amounts remain after satisfying the municipality and all the interested parties. Again, the court will make this determination and not the municipal treasurer.

#### **PAYMENT INTO DISTRICT COURT**

##### **s. 10(2)**

The treasurer, upon removing the amount of the cancellation price from the sale amount that was received for the property, will pay the

remaining money into the District Court. The treasurer or the treasurer's agent (i.e., possibly the solicitor) will have to attend at the District Court to obtain a requisition for payment into Court. Once the requisition is received the treasurer will pay the money into the Court's bank. It is suggested the money be deposited directly into the branch used by the District Court.

### **STATEMENT OF FACTS**

#### **s. 10(2)**

The treasurer when making payment into the Court by depositing the money with the clerk of the District Court must attach a statement of facts (Form 12). The statement sets out the date of the sale of the property, a street address (if there is one) and a legal description of the land. The amount that the treasurer is paying into the Court is also set out.

### **CLAIMING ENTITLEMENTS**

#### **s. 10(3)**

Any person who has interest in the land, as set out under subsection 10(1)(b), may make a claim for an amount out of the remaining proceeds after the municipality or board has removed the cancellation price. Should any person decide to make such an application to the Court, they must do so within one year from the day of the payment into Court.

### **DETERMINING ENTITLEMENTS**

#### **s. 10(4)**

The District Court is charged with the responsibility of making the determinations as to the distribution of the remaining proceeds of the sale. If one application is received by the Court for an entitlement, the Court will determine all of the entitlements.

Form 12  
**Payment Into Court — Statement of Facts**  
*Municipal Tax Sales Act, 1984*

**STEP 1**

To the Local Registrar for the District Court of Ontario at (place at which the Court sits in the county or district in which the land is situate) \_\_\_\_\_

**Take Notice** that pursuant to s. 10 of the *Municipal Tax Sales Act, 1984*, the land described below was sold on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

**And take further notice** that this is a true statement of the facts with respect to the sale of the property described below:

**STEP 2**

1. **Description of Land:**  
Municipal Address (if any):

Legal description (a parcel number must be provided where the land is registered in the land titles system):

**STEP 3**

2. **Payment into Court**

Total Amount Paid into Court \$\_\_\_\_\_

3. Under section 10 of the *Municipal Tax Sales Act, 1984*, any person claiming entitlement under the Act to any of the proceeds of sale may apply to the District Court, within one year of payment into court, for payment out of court of the amount to which the person is entitled.

## FORFEITURE

s. 10(4)

Should no person make an application to the Court within the one-year period the money that the treasurer paid in will be deemed to be forfeited to the municipality or board. The municipality or board may then apply to the Court for payment out of Court of the amount.

## COMPLETING THE STATEMENT OF FACTS

### Prescribed Form 12

The treasurer when making the statement up should include the following information:

#### Step 1

Enter the place at which the Court sits in the county or district in which the land is found. If the Court sits in the District of Thunder Bay enter "District of Thunder Bay."

The treasurer also must complete the date upon which the land was sold.

#### Step 2

Enter the municipal address of the land if there has been one assigned.

Complete a legal description of the land. If the land is registered in land titles be sure to provide the parcel number of the land. If a schedule is required, attach it to the form.

#### Step 3

Enter the total amount that is being paid into the Court. This amount is the remainder after the municipality or board has removed the cancellation price from the sale price received for the land.

**STEP 4**

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Name	Title
------	-------

\_\_\_\_\_  
Name of Municipality or Board

\_\_\_\_\_  
Address and Telephone Number of Municipality or Board

#### Step 4

Enter the date and place in which the form was completed, as well as entering the name and title of the authorized officer completing the form.

Enter the name, address and telephone number of the municipality or board.



**Payment Into Court — Statement of Facts***Municipal Tax Sales Act, 1984***STEP 1**

To the Local Registrar for the District Court of Ontario at (place at which the Court sits in the county or district in which the land is situate) \_\_\_\_\_

**Take Notice** that pursuant to s. 10 of the *Municipal Tax Sales Act, 1984*, the land described below was sold on the \_\_\_\_\_

day of \_\_\_\_\_, 19\_\_\_\_\_.

**And take further notice** that this is a true statement of the facts with respect to the sale of the property described below:

**STEP 2****1. Description of Land:**

Municipal Address (if any):

Legal description (a parcel number must be provided where the land is registered in the land titles system):

**STEP 3****2. Payment into Court**

Total Amount Paid into Court \$ \_\_\_\_\_

3. Under section 10 of the *Municipal Tax Sales Act, 1984*, any person claiming entitlement under the Act to any of the proceeds of sale may apply to the District Court, within one year of payment into court, for payment out of court of the amount to which the person is entitled.

**STEP 4**

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Name	Title
_____	_____

Name of Municipality or Board

Address and Telephone Number of Municipality or Board







## Chapter 16

### DEALING WITH PROCEDURAL ERRORS

#### TAX ARREARS CANCELLATION CERTIFICATE

The Act specifies a number of ways of dealing with errors or omissions during the tax sales procedure. The tax arrears cancellation certificate, besides being used when the cancellation price has been paid, is used in situations where errors or omissions of a substantial nature occur.

#### ERRORS, OMISSIONS, NON-COMPLIANCE

s.12(2)

A general use of the tax arrears cancellation certificate is for those instances where the treasurer becomes aware of either:

- a failure on his or her part to substantially comply with the provisions of the first and final notices. Such a failure would include the failure to provide a notice to all those interested parties that are eligible to receive one; or
- an error or omission in the registration or sale of land. For example, if when registering the tax arrears certificate, the treasurer supplies a misdescription of the land and the land registered is not the correct one, then the treasurer must forthwith make and register the tax arrears cancellation certificate.

#### HALTING THE PROCEEDINGS

s.12(6)

The treasurer is given the discretion in subsection 12(6) to bring a halt to the proceedings if in the treasurer's opinion it is not in the financial interests of the municipality to continue the proceedings, or because of some neglect, error, or omission it is not practical or desirable to continue the proceedings.

## LIMITATIONS ON VOIDING THE PROCEDURE

### S.12(4),(5)

Subsection 12(4) provides that unless the person who complains that there was an error or omission establishes that actual prejudice was suffered, the procedure is not voidable.

Subsection 12(5) provides certain limits upon which the proceedings under the Act may be rendered voidable. None of the following reasons render a proceeding voidable:

- a failure on the part of the treasurer to distrain for any reason or take any other action for the collection of taxes. The failure of the treasurer, for example, to have tenant rents paid to the municipality on account of the arrears, would not be a reason to have the tax sales procedure voided;
- an error in the cancellation price other than a substantial error;
- any error in the notices sent or delivered if the error has not substantially misled the person complaining of the error;
- any error in the publishing or posting of advertisements if the error has not substantially misled the person complaining of error; and
- any error in the description of the land in the tax arrears certificate if the error has not substantially misled the person complaining of the error.

The treasurer, if a decision to halt the process is made, must make and register a tax arrears cancellation certificate.

The act of registering the tax arrears cancellation certificate does not preclude the treasurer from registering a new tax arrears certificate against the land and starting the procedure over again.

If there is concern with the procedures carried out under the Act you should consult directly with the municipal solicitor.









## Chapter 17

### COUNTY/UPPER TIER AGREEMENTS

#### PURPOSE - DEFINITION

Section 17 of the Act permits the council of any county, regional, district or metropolitan government to enter into an agreement with a local municipality or board to allow the upper-tier treasurer to carry out the procedures under this Act and those functions that involve the collection of tax arrears for the municipality.

There were areas in the province that operated under the procedures of the Municipal Act prior to the enactment of the Municipal Tax Sales Act, 1984. In these instances the county treasurer carried out the sale of property for the local municipalities. The Municipal Tax Sales Act, 1984 recognizes that prior procedure and provides that the upper-tier municipalities, which includes counties, and the local municipalities may carry on with a similar process if both agree.

In the following discussion any reference to the county treasurer and county council applies equally to all other upper-tier councils and treasurers. Any reference to local municipality applies equally to boards of education whose officers are collectors having the same powers and duties as those of a municipal treasurer.

#### IMPLEMENTATION

##### s. 17(1)

In order to permit the county treasurer to perform the duties of the local treasurer under the Act an agreement between the two municipalities (or any number) must be completed.

The council of any county may by by-law enter into an agreement with any local municipality within the county boundaries, to have the county

treasurer perform the necessary functions of a treasurer under the Act.

The council of the local municipality must also pass an authorizing by-law that will execute the agreement.

## **TREASURERS' DUTIES**

s. 17(2,3)

### **County treasurer**

The county treasurer upon the entering into of an agreement performs all of the duties of the local treasurer with respect to the collection of tax arrears in the municipality. This means that the county treasurer is not only responsible for carrying out the duties under this Act but also those of a local treasurer in other Acts that relate to the collection of tax arrears.

The county treasurer under the Municipal Tax Sales Act, 1984 is required to follow the normal procedure of the Act, from registration of the tax arrears certificate through to the completion of the sale.

### **Local treasurer**

Where there is an agreement in force, the local treasurer must provide the county treasurer with any information or assistance that the treasurer may need to exercise the powers conferred upon the treasurer by the Act.

## **EXTENSION AGREEMENTS / SCALE OF COSTS**

s. 17(2)

Where an agreement exists only the county council may pass a by-law to enter into an extension of the payment period with the owner of the land or spouse of the owner in the case of a matrimonial home. The council of the local municipality may not extend the payment period.

Only the council of the county may pass a by-law under section 15 of the Act, to establish a scale of costs to be charged as the reasonable costs of proceeding under the Act.

## **CANCELLATION OF THE AGREEMENT**

s. 17(4,5,6)

It is possible for either the county or the local municipality to cancel an agreement; however, it should be cancelled according to the terms provided for in the agreement. Should one party decide to cancel the agreement it must pass a by-law cancelling it. The by-law can be passed at anytime by either party.

### **Notice**

If either the county or municipality passes a cancellation by-law it must inform the other party forthwith by sending a certified copy of the by-law by registered mail to the treasurer of the other municipality.

### **Effect of Cancellation**

Upon cancellation and proper notification, the treasurer of the local municipality assumes the duties of the treasurer under this Act for all land except that land which was registered under this Act by the county treasurer. In this instance the county treasurer continues on with the procedure until it is concluded.

## **SAMPLE AGREEMENT**

The Ministry, in conjunction with a number of municipal staff members, has developed a sample agreement (see chapter 22). The agreement is a sample for information purposes only. Municipalities may find particular items of interest to them or they may have different ideas for any agreement that they may contemplate. Every municipality should consult its own solicitor in order to develop an agreement that will be suitable to their own particular needs.

## Manadatory Contents

Section 17 requires the following items to be included in any agreement;

- there must be payment to the county of that portion of the cancellation price that reflects the reasonable costs incurred by the county,
- the method of cancelling any agreement, and,
- any other matters that are necessary to the carrying out of the agreement.

## Possible Provisions

The following list of suggestions is not exhaustive and should only be considered as possible items in an agreement.

### 1. Definitions

**Act:** should be described as the Municipal Tax Sales Act, 1984.

**County Treasurer:** Define the treasurer as the treasurer of the County of Hastings, for example.

**Municipal Treasurer:** is the treasurer of the local municipality that is entering into the agreement with the County.

### 2. County Treasurer's Duties

In addition to those duties listed in the Act, the agreement may specify other duties of the County Treasurer.



### 3. Municipal Treasurer's Duties

Among others, the municipal treasurer's responsibilities may include the submission of a list of lands that are in tax arrears to the county treasurer.

### 4. Date of Receiving the List

The agreement could build in a provision requiring the list of lands that are in arrears be submitted by a specific date to the county treasurer.

### 5. Registering the Deed or Notice of Vesting

If a parcel of land is sold to a purchaser or if there is no successful purchaser the county treasurer will be responsible for making and registering the tax deed or the notice of vesting in the prescribed forms.

### 6. Time Limit for Payment to Local Municipality

The agreement might provide for a specific time during which the cancellation price, less the county's costs, should be paid to the local municipality after a sale of land. For example, that period might be 30 or 60 days after the completion of the sale.

### 7. Determining the County's Costs

The county has the same two options for determining costs as does a local municipality that carries out the tax sales procedure on its own behalf. The county either charges the actual costs it incurs or passes a scale of costs by-law. It should be noted again that when there is an agreement in force, only the county can pass a scale of costs by-law and the county alone determines the costs it will need to recover.

## 8. Payment into Court

If there is a successful sale, the county treasurer must pay the proceeds minus the cancellation price into the District Court. The agreement may contain a provision requiring the county treasurer to notify the local treasurer of the payment into Court.

## 9. County Treasurer to Claim

After the expiry of the one-year period during which a person may make a claim under section 10 of the Act, the county treasurer should apply for payment out of court of the amount paid in if no one has made a claim.

## 10. Extension Agreements

A provision may be included to allow the county council to enter into an agreement with the owner (or spouse of the owner) to extend the time in which payment of the cancellation price may be made to the county. Note that, while there is an agreement between the county and the local municipality in force, only the county council may pass a by-law allowing for extension agreements.

## 11. Cancelling Agreement

The Act permits either party to cancel the agreement at any time. Therefore, the agreement should include a section indicating that this may occur and that if one party passes a by-law cancelling the agreement it must immediately inform the other of the cancellation. Other terms and conditions agreed upon by the parties may be included in the agreement.

## 12. Agreement Comes Into Force

There should be a provision in the agreement that formally sets out the date upon which the agreement comes into force.

These provisions are only suggestions. Each municipality will have to consult its solicitors and officials to develop an agreement that will be suitable to its specific requirements.







## Chapter 18

### TRANSITION PERIOD

#### PURPOSE / DEFINITION

s.23

With the introduction of the Municipal Tax Sales Act, 1984 it was necessary to provide a transition period for those properties that were registered under the provisions of the Municipal Affairs Act, or subject of a certificate under section 433 of the Municipal Act. Section 433 (which was repealed by the new Act) required the treasurer, after selling land for taxes, to give a certificate to the purchaser stating among other things, that a tax deed would be provided if the property was not redeemed within the allotted time period.

If land was subject to the provisions of either the tax registration process or the tax sale procedure prior to January 1, 1985, it is not affected by the procedure under the Municipal Tax Sales Act, 1984, unless no action is taken on the land by the municipality or interested parties by January 1, 1987.

#### EFFECT

The effect of the above provision is that those properties that were registered or the subject of a certificate prior to the coming into force of this section continue under the previous acts. Consequently, if a property was registered under the Municipal Affairs Act, before January 1, 1985, that procedure continues. This means that Ministry approvals for those properties are still required. If the municipality wants to sell the property after the year for redemption has expired, Ministry approval would be required.



## TRANSITION

### s. 23(2)

This subsection provides for a sunset provision that will formally end the procedures under the Municipal Act and the Municipal Affairs Act, that were commenced prior to January 1, 1985. Where land to which subsection 23(1) of the Act applies, has not been the subject of a tax deed under the Municipal Act and has not been sold or declared for municipal purposes under the Municipal Affairs Act by January 1st, 1987, the land vests in the municipality on the day that it registers a notice of forfeiture in the appropriate land registry office.

## NOTICE OF FORFEITURE

### s.23(3)

The treasurer is required to register a notice of forfeiture in the prescribed form (Form 13) for each parcel of land that is not the subject of a tax deed under the Municipal Act or has not been sold, assumed for municipal purposes, or the subject of a subsisting agreement under the Municipal Affairs Act by January 1st, 1987. The subsisting agreement is usually referred to as a compromise agreement. The agreement generally provides for an extended time period to pay the arrears and costs owing to the municipality.

### **Municipality or Board Receives Title**

Upon registration of the notice of forfeiture the land vests in the municipality an estate in fee simple with all the rights except:

- easements and restrictive covenants that run with the land;
- any interest or title acquired by adverse possession by abutting landowners before the registration of the notice; and

Form 13 — Municipal Tax Sales Act, 1984

# Document General

Form 4 — Land Registration Reform Act, 1984

D

(1) Registry <input type="checkbox"/>	Land Titles <input type="checkbox"/>	(2) Page 1 of	pages
(3) Property Identifier(s)	Block	Property	Additional: See Schedule <input type="checkbox"/>
(4) Nature of Document <b>Notice of Forfeiture</b> Form 13 — <i>Municipal Tax Sales Act, 1984</i>			

- any estates and interests of the Crown, either federally or those in the right of Ontario.

The title is final and binding and is not subject to challenge unless there is proof of fraud.

### **School Boards**

The transitional period and the notice of forfeiture applies with the necessary modifications to proceedings taken under the Education Act or any predecessor of the Act by a board to collect school rates or subscriptions.

## **COMPLETING THE NOTICE OF FORFEITURE**

### **Prescribed Form 13**

When completing the notice the treasurer should include the information set out below.

#### Step 1 - Box 1

Mark with an "X" whether land is registered in land titles or the registry system.

#### Step 2 - Box 2

Enter the total number of pages that constitute the document. For example, where a schedule is required to complete a description of the land, the number of pages will be two.

#### Step 3 - Box 3

If property identifiers have been assigned to the land enter them in box 3. Only a maximum of two should be entered here. If there are more than

FOR OFFICE USE ONLY			(5) Consideration	
			_____ N/A _____ Dollars \$ _____ N/A _____	
			(6) Description	
	New Property Identifiers	Additional: See Schedule <input type="checkbox"/>		
	Executions	Additional: See Schedule <input type="checkbox"/>		

two mark the "Additional See Schedule" box with an "X" and attach the schedule. If no identifiers are assigned, leave the box blank.

#### Step 4 - Box 6

Box 6 provides space to complete a legal description of the land. Should a metes and bounds description be involved, a schedule may be necessary to complete the description. If a schedule is needed, enter "SEE SCHEDULE" and attach the schedule.

Preambles like "All and Singular that certain..." are not required. All descriptions should begin with the parcel and section (in land titles), the part, lot or unit on the plan or concession lot. The status of the municipality must also be included. If a condominium property is involved enter a reference to the land registry office in which the plan is registered.

For example:

#### **REGISTRY:**

Part of Lots 111 and 112, Registered Plan  
1010, North York, City of North York,  
SEE SCHEDULE

#### **LAND TITLES:**

Parcel 99-2 Section 40M-542 Being Lot 2  
Plan 40M-542, Township of River,  
District of Thunder Bay

(7) This Document Contains:	(a) Redescription New Easement Plan/Sketch <input type="checkbox"/>	(b) Schedule for:	
		Description <input type="checkbox"/>	Additional Parties <input type="checkbox"/> Other <input type="checkbox"/>

**(8) This Document provides as follows:**

By virtue of the *Municipal Tax Sales Act, 1984*, the registration of this document vests in the municipality or board named in Box 10

- (a) an estate in fee simple in the land described in this document, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to easements and restrictive covenants that run with the land, any estates or interests of the Crown in right of Canada or in right of Ontario, any interest or title acquired by adverse possession by abutting landowners before the registration of this document, any severence of the mining rights from the surface rights under s. 14 of the Act, and
- (b) any interest in or title to adjoining land acquired by adverse possession before the registration of this document if the person originally acquiring the interest or title did so as a consequence of possession of the land described in this document.

Note: For further particulars regarding the title conferred by the registration of this document see section 23 of the *Municipal Tax Sales Act, 1984*. Any further inquiries regarding this matter may be directed to the municipality or board named in box 10 at the address shown in box 11.

Assessment Roll Number of Property	Cty.	Mun.	Map	Sub.	Par.	Continued on Schedule <input type="checkbox"/>
------------------------------------	------	------	-----	------	------	--

**(9) This document relates to instrument number(s)**

(10) Party(ies) (Set out Status or Interest)	Signature(s)	Date of Signature
Name(s)		Y M D
.....		
.....		
.....		

<b>(11) Address for Service</b>
---------------------------------



Step 5 - Box 7b

If a schedule is required for a legal description mark the description box with an "X".

Step 6 - Box 8

Enter the assessment roll number of the property.

Step 7 - Box 9

Enter the instrument number of the tax arrears certificate. This will assist the land registry officials in placing the notice on the correct parcel of land.

Step 8 - Box 10

Enter the full corporate name of the municipality or board, including the postal code, in capital letters.

Under "Signatures" the treasurer or authorized officer must sign the document. The treasurer or authorized officer must then enter the year, month and day that the signature was placed.

For example:

PARTY(IES)	SIGNATURES	DATE OF SIGNATURE		
THE CORPORATION OF	<i>John M. Doe</i>	Y	M	D
THE TOWNSHIP OF RIVER		87	01	26

Step 9 - Box 11

Enter the address of the municipality or board including the postal code, in this box. Should anyone wish to contact the municipality or board, they may do so at this address.





#### Step 10 - Box 14

If there is a municipal address for the land it should be set out in this Box. Be sure to provide the full municipal address in the following format; the street number, suffix if there is one, street name, the unit type, unit number, municipality and the postal code. If no municipal address has been assigned to the property, enter "NOT ASSIGNED".

For example:

21 North Street  
River, Ontario  
N0P 4M0  
or  
"NOT ASSIGNED"

#### Step 11 - Box 15

Enter the name and address of the person who actually completed the form. If it was the treasurer enter the treasurer's name, title and address. If a solicitor completes the document enter the solicitor's name and full address. The name of the solicitor's firm may also be included.

For example:

John M. Doe  
Treasurer,  
Township of River,  
Box 101,  
11 Center Street,  
River, Ontario  
M7B 1C3  
or  
Bill Batch  
Solicitor,  
Batch and Burns, Solicitors,  
42 Front Street,  
Toronto, Ontario  
N0P 2B3

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## Chapter 19

### ACCOUNTING TREATMENT FOR THE TAX SALES PROCEDURE

#### GENERAL REMARKS

The provisions of the Act simplify the journal entries required to record and account for arrears registered under the new tax sales procedure. As outlined in the following sections there are different times at which the amount owing to the municipality or board might be paid after the initial step of the registration of a tax arrears certificate which affects the type and timing of the accounting entries.

NOTE: Municipalities utilizing computer systems may handle the accounting differently.

The accounting entries are based upon the following scenarios:

- registration of the tax arrears certificate through to completion of a sale of the land,
- registration of the tax arrears certificate to payment prior to the expiry of the one-year "redemption" period, and
- registration through payment where an extension agreement is entered into.

#### COMMON JOURNAL ENTRIES

Most of the journal entries required are common to all situations and are based on the following procedures:

- in all cases the basic cancellation price must be calculated for registrations,
- penalties and interest should be calculated on a monthly basis and are added to the cancellation price,



- current taxes owing are added to the cancellation price,
- eligible costs incurred as provided by subsection 1(1)(a) are added to the cancellation price,
- land transfer tax is payable on a sale of land,
- proceeds from a sale are first applied to the cancellation price and any amount remaining is paid into the District Court for potential distribution among the interested parties,
- if no claims are made to the court within one year, the money is deemed forfeited to the municipality and the municipality may apply to the court for the money. Any money received by the municipality from the Court shall be credited to the general funds of the municipality,
- the portion of taxes for region or county and school board purposes is not written off or charged back to these bodies since the full cancellation price must be recovered and credited to the general funds of the municipality.

### REGISTRATION TO SALE

For the purposes of this example, the following assumptions are made:

- taxes are due each year on June 30 in one instalment,
- penalties and interest are calculated at 1% per month,

- tax arrears on Property X at December 31:

1985	1,000
1986	1,100
1987	<u>1,200</u>
	\$ 3,300

Note: Additional journal entries will be required where taxes are payable in two or more instalments.

### Basic Information

At December 31, 1987, the balances in the books of the municipality for Property X are:

Taxes receivable (asset)	\$3,300
Penalties and interest receivable (asset)	570

calculated as follows:

	<u>1985</u> \$	<u>1986</u> \$	<u>1987</u> \$	<u>TOTAL</u> \$
Taxes due June 30	1,000	1,100	1,200	3,300
Penalties at 1%/month	60	66	72	198
Interest at 1%/month on \$1,000	-	120	120	240
on \$1,100	-	-	132	132
	<hr/> \$1,060	<hr/> \$1,286	<hr/> \$1,524	<hr/> \$3,870

Commencing on January 1, 1988, and on the first day of each month thereafter, interest is charged at 1% per month on \$3,300.

Entry on January 1, 1988:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Penalties and interest receivable (asset)	33	
Penalties and interest (revenue)		33

#### Sale of Property Occurs

1. On January 16, 1988, a tax arrears certificate is registered and the cancellation price is recorded in a tax registration account:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	3,903	
Taxes receivable (asset)		3,300
Penalties and interest receivable (asset)		603

2. On February 1, 1988 and each month up to and including December 1, 1988, charge interest:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Penalties and interest receivable (asset)	33	
Penalties and interest (revenue)		33

Total interest on \$3,300 at 1% per month for 11 months is \$363.

3. On June 30, 1988, current taxes of \$1,300 are due:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	1,300	
Taxation revenue(revenue)		1,300

4. On July 1, 1988 and each month up to and including December 1, 1988, charge penalties:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	13	
Penalties and interest (revenue)		13

Total penalties on \$1,300 at 1% per month for the 6 months is \$78.00

At December 31, 1988, the balance in the books is now:

Tax registration account (asset)		\$5,644
Comprised of:		
Taxes	\$4,600	
Penalties and interest	1,044	
		<u>\$5,644</u>

For financial statement presentation, the balance in the tax registration account should be disclosed as an unrestricted asset. Since the total amount will be recovered, one way or another, the balance should not be reduced by an allowance for uncollectable taxes as was the practice under the previous procedure.

5. On January 1, 1989, interest is charged on \$4,600 at 1% per month:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	46	
Penalties and interest (revenue)		46

On January 16, 1989, the property becomes liable for sale and the advertising and tendering procedures are followed. The property is to be sold on March 15, 1989.

Entries required:

6. On February 1 and March 1, 1989, charge interest on \$4,600 at 1% per month:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	92	
Penalties and interest (revenue)		92

7. Eligible sales and other costs -- say \$500:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	500	
Costs of sale (expenditure)		500

On March 15, 1989, the total cancellation price is \$6,282 comprised of:

Taxes	\$4,600
Penalties and interest	1,182
Sales and other cost	<u>500</u>
	<u>\$6,282</u>

#### Sale Possibility No. 1

8(a) There is a successful bid of \$8,500 on which land transfer tax of \$43 ( $.005 \times \$8,500$ ) is payable. Entries are:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
(i) Bank (asset)	8,534	
Tax registration account (asset)		6,282
Accounts payable		2,218
- District Court (liability)		
Accounts payable		43
- Province of Ontario (liability)		
(ii) Accounts payable		
- District court (liability)	2,218	
Accounts payable		
- Province of Ontario (liability)	43	
Bank (asset)		2,252

### Sale Possibility No. 2

8(b) There is a successful bid by the municipality of \$8,500 to purchase the property for municipal purposes. Entries are:

	<u>Debit</u> \$	<u>Credit</u> \$
(i) Purchase of land (expenditure)	8,534	
Tax registration account (asset)		6,282
Accounts payable - District Court (liability)		2,218
Accounts payable - Province of Ontario (liability)		43
(ii) Accounts payable - District Court (liability)	2,218	
Accounts payable - Province of Ontario (liability)	43	
Bank (asset)		2,252

### Sale Possibility No. 3

8(c) There is no successful purchaser and the property is vested in the name of the municipality. Land transfer tax payable on the cancellation price of \$6,282 is \$31 ( $.005 \times \$6,282$ ).



	<u>Debit</u>	<u>Credit</u>
	\$	\$
(i) Land acquired for taxes (expenditure)	6,307	
Tax registration account (asset)		6,282
Accounts payable - Province of Ontario (liability)		31
(ii) Accounts payable - Province of Ontario (liability)	31	
Bank (asset)		31

9. Any amount paid to the municipality under the provisions of section 10 of Act is paid into the general funds of the municipality. For example, assume that \$1,000 is paid to the municipality.

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Bank (asset)	1,000	
Sundry revenue (revenue)		1,000

#### PROPERTY REDEEMED

The owner redeems the property on September 30, 1985. The entries will be the same as illustrated in Part I (sale of property) up to the date of redemption and the cancellation price will be comprised of:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Cancellation price at January 16		\$3,903
Interest from February 1 to September 1 inclusive, 8 months at 1% per month on \$3,300		264
Current taxes due June 30		1,300
Penalties from July 1 to September 1 inclusive, 3 months at 1% per month on \$1,300		39
Eligible costs - say		<u>100</u>
		\$5,606

Entry required on receipt of redemption payment:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Bank (asset)	5,606	
Tax registration account (asset)		5,606

### EXTENSION AGREEMENT

If an extension agreement is entered into under section 8 of the Act, payments received are credited to the tax registration account to reduce the cancellation price. The payments are applied first to reduce total penalties and interest, and any balance to the oldest tax principal outstanding. Penalties and interest continue to be charged on the outstanding principal until the account is fully paid.

On June 15, 1985, an extension agreement is signed providing for payments of \$500 a month with first payment due on July 15. At that date the cancellation price will be:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Cancellation price at January 16		\$3,903
Interest from February 1 to July 1 inclusive, 6 months at 1% per month on \$3,300		198
Current taxes due June 30		1,300
Penalties on July 1 at 1% per month		13
Eligible costs - say		<u>100</u>
		<u><u>\$5,514</u></u>

Payment of \$500 received on July 15, 1985, is applied to penalties and interest of \$814. The balance is now:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Principal		\$4,600
Penalties and Interest		314
Eligible cost		<u>100</u>
		<u><u>\$5,014</u></u>

On August 1, 1985 charge interest on \$4,600 at 1% per month:

	<u>Debit</u>	<u>Credit</u>
	\$	\$
Tax registration account (asset)	46	
Penalties and interest (revenue)		46

Payment of \$500 received on August 15, 1985 is applied as follows:

Penalties and interest	360
Principal	140
	<u>500</u>
The balance is now:	
Principal	4,460
Eligible costs	100
	<u>4,560</u>

On September 1, 1985 and each month until the account is cleared, interest is charged on the outstanding principal. Payments received are credited first to the interest, and the remaining balance to the outstanding tax principal. The final payment should include an amount to recover eligible costs.

If the agreement is breached, the normal tax sales procedure resumes to recover the balance of the cancellation price.





## Chapter 20

### THE PRESCRIBED FORMS

#### COMPATIBILITY

All of the prescribed tax sales forms that are to be registered in a land registry office have been adapted to the forms prescribed under the Land Registration Reform Act, 1984 and are acceptable in every land registry office. Since April 1, 1985, the land registry offices accept only the forms prescribed under the Land Registration Reform Act, 1984 for registration.

The introduction of the new forms under the Land Registration Reform Act, 1984 provides a greater degree of standardization of the documents registered in the land titles or registry office. The prescribed forms under the Municipal Tax Sales Act, 1984, reflect that standardization.

#### CAUTIONARY NOTE

The Forms used in the Guide are for illustrative purposes only. These Forms have been reduced and are not the correct size for actual use in the tax sales procedure. They will not be acceptable for registration.

#### **Municipal Tax Sales Forms**

The forms that are required to be used in the tax sales procedure fall into two categories: those that have to be registered and those that do not.

##### **A. Registerable Forms:**

Form 1 - Tax arrears certificate

Form 3 - Statutory declaration regarding notices (first notice)

Form 4 - Tax arrears cancellation certificate

Form 10- Transfer/deed of land/statutory declaration

Form 11- Notice of vesting/statutory declaration

Form 13- Notice of forfeiture



The forms described above have been designed to be compatible with the Polaris forms under the Land Registration Reform Act, 1984. All of the tax sales forms, with the exception of Form 10, have been incorporated into a Document General form. Where necessary a Schedule document is used, such as in the case of the notice of vesting/statutory declaration. The Schedule is Form 5 prescribed under the above Act. The tax deed has been incorporated into the Deed/Transfer of Land.

B. Non-Registerable Forms

Form 2 - Notice of registration of tax arrears certificate

Form 5 - Final notice

Form 6 - Statutory declaration regarding the sending of notice  
(final notice)

Form 7 - Sale of land by public tender (advertisement)

Form 8 - Tender to purchase

Form 9 - Sale of land by public auction (advertisement)

Form 12- Payment into court-statement of facts

### GENERAL INSTRUCTIONS

For those forms that have to be registered, there are certain things that should be done for each one.

The Ministry of Consumer and Commercial Relations, which has responsibility for the land registry offices, has established guidelines for the completion of the forms.

Since the forms that are submitted for registration are going to be microfilmed and the originals may be destroyed afterwards, it is essential that the quality of the completed forms be high.

Documents that cannot be microfilmed will be rejected at the land registry offices. Therefore the following things should be done by the

treasurer when completing the forms for registration under the Municipal Tax Sales Act, 1984:

- Ensure that typed characters are always placed within the boxes.
- If the information in the forms is being typed use only black typewriter ribbon which is dark and of a uniform density.
- If the information is being handwritten use only black or other such dark ink. Care should be taken to ensure that the printing or writing is clearly legible.
- Avoid typing or writing over preprinted information on the forms. Any boxes that need not be completed have a dark line through the box as well as a "N/A".
- Do not type over typed words or characters.
- Do not use correcting fluids if you make a mistake. Retype the document.
- Photocopies of the forms may be used if they are legible and can meet the microfilming standards of the land registry office in which the form will be registered.

### DUPLICATES

The treasurer is entitled to have one duplicate endorsed by the land registry office so long as the proper registration fees have been paid. If the documents are mailed into the office they will be returned by mail if the municipality submits a self-addressed stamped envelope and the treasurer has appropriately marked the duplicate box on the reverse side of the forms.

## REGISTRATION FEES

At the time of writing, the registration fee for all of the forms except the Transfer/Deed of Land, is \$6. The registration fee for the Transfer/Deed of Land is \$16.

## LAND TRANSFER TAX AFFIDAVITS

Where a land transfer tax affidavit is attached to the Transfer/Deed of Land do not mark the schedule box (Box 6b). The affidavit is not considered a formal schedule but should be numbered as forming part of the document.

The affidavits will normally be completed by the purchaser and returned to the treasurer prior to registration of the necessary documents in the appropriate land registry office.

## SCHEDULES

All schedules used in the procedure should be in the prescribed form (Form 5) under the Land Registration Reform Act, 1984.

## REPEAL AND REPLACEMENT

The passing of Ontario Regulation Number 444/85 repealed the initial five forms that were established for the tax sales procedure under Regulation 830/84. Those forms have been replaced by the new ones.

After December 31, 1985 municipalities and boards must use the new prescribed forms.





## Chapter 21

### AMENDMENTS TO OTHER ACTS

The Municipal Tax Sales Act, 1984 amended and repealed certain sections of a number of other Acts. These changes are outlined below are only a short summary of some of them. For complete accuracy and reading refer the legislation directly.

#### **MUNICIPAL ACT AMENDMENTS**

##### **Repealed Sections**

Section 397. This section dealt with the submission of a statement of tax arrears to the county treasurer, where the county treasurer was required to collect arrears for a village or a township.

Section 400. This section held that once the list was given to the county treasurer, the treasurer was responsible for the collection of the arrears.

Sections 402 to 405. These sections concerned the lists of land three years in arrears and which were eligible for tax sale.

Sections 413 to 418. These sections dealt with a number of items related to the sale of land for tax arrears.

Sections 420 to 464, 466 to 472. These sections dealt with, among other things, the establishment of a town in a county as well as the collection of arrears.

##### **Amended Sections**

Section 399. The words "county or other" are removed.

##### **Repealed and Replaced Sections**

Section 401. Is repealed and replaced with a new section that requires the treasurer of every municipality to collect the tax arrears. It permits



part payments which must be credited, first, to the interest and penalty charges, if any. Then the remainder is to be credited against the taxes that have been in arrears for the longest period of time. This section also establishes that no part payments may be accepted after a tax arrears certificate is registered in accordance with the Municipal Tax Sales Act, 1984.

Section 409. Now provides that every local treasurer must keep a duplicate blank receipt book for money received for taxes. A receipt is given to the person paying and the duplicate retained for the auditor. Previously a triplicate receipt book had to be kept.

Section 419. Is repealed and replaced to provide that a treasurer may levy the arrears of taxes and costs by distress. Prior to the change the treasurer was supposed to levy by distress for the amounts owing but not for costs.

Section 491, 492 and 493. Are repealed and replaced to reflect changes in the treasurer's responsibilities for the payment of money to the municipality as well as the treasurer's sureties and bonding for school money.

Section 494. Is repealed and replaced to provide that any person affected by the default of a treasurer in any municipality may recover from the municipality the amount due. Previously this applied only to counties, cities and towns.

## **Forms**

Form 8. Is amended to reflect the new tax sales procedure.



## MUNICIPAL AFFAIRS ACT

### Repealed Sections

The following sections, subsections and clauses were repealed by the Municipal Tax Sales Act, 1984:

Clause 6(b). This clause permitted the Ministry to direct that the tax arrears procedure of the act applied to a municipality and not the tax sales procedure under the Municipal Act. It also required the approval of the Ministry for the disposition of land under the tax arrears procedure.

Section 20, 40 to 47, 49 and 50. These sections established and set out the tax registration process under the act.

Subsections 64(2) and (3). They provided that where the affairs of a municipality were no longer subject to Part III of the act, the tax registration procedure would continue. As well, when an improvement district or part of an improvement district was erected into a town, township or village, the procedures continued to apply to them.

Forms 1 to 4. The forms were used in the tax registration procedure.

## EDUCATION ACT

### Repealed Sections

Subsections 67(7-11). These subsections dealt with, among other things, the keeping of the sheriff's book for school rates in district school areas.

### Amended Sections

Subsections 53(1), 67(2), 69(3) and 112(2). Are amended to provide a school board that includes territory without municipal organization and its officers, with the authority to use the municipal tax sales procedure.

Subsection 69(6). Is amended to effect a minor wording change.

Subsection 112(2). Is amended to provide the officers of a board of a district combine separate school zone that include territory without municipal organization that is deemed in district municipality for separate school purposes with the power to sell land for tax arrears.

### **Repealed and Replaced Sections**

Subsection 67(6). Is repealed and replaced to require a district school board to name one of its officers as the person responsible for any sale of land under the Municipal Tax Sales Act, 1984.

Subsection 99(2). Is repealed and replaced to provide that a collector for a separate school board that includes unorganized territory has the same powers under the Municipal Tax Sales Act, 1984, as does the treasurer of local municipality.

## **ASSESSMENT ACT**

### **Repealed Sections**

Subsection 17(2). This subsection set out that the procedure for selling a tenant's interest assessed on Crown land would be that as established under the Municipal Act.





## Chapter 22

### SAMPLE AGREEMENTS AND BY-LAWS

The samples set out in this chapter are provided as guidelines only, to assist municipalities and boards in the preparation of suitable wording for their own agreements and by-laws. The Ministry does not guarantee that the wording of these samples is appropriate in any or all circumstances or that the samples contain any or all clauses that may be required in any individual document. Municipalities and boards must consult with their own solicitors when preparing agreements and by-laws to ensure that these documents are adequate and appropriate to their individual requirements.

SAMPLE SCALE OF COSTS

THE CORPORATION OF THE \_\_\_\_\_ OF \_\_\_\_\_

By-law no. \_\_\_\_\_

Being a by-law to establish a scale of costs pursuant to the Municipal Tax Sales Act, 1984

WHEREAS section 15 of the Municipal Tax Sales Act, 1984, S.O. 1984, chapter 48 permits a by-law to be passed to establish a scale of costs to be charged as the reasonable costs of proceedings under the Act,

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE \_\_\_\_\_ ENACTS AS FOLLOWS:

THAT the Council of the Corporation of the \_\_\_\_\_ of \_\_\_\_\_ hereby establishes the scale of costs as set out in Schedule "A" attached hereto and forming part of this by-law, pursuant to section 15 of the Municipal Tax Sales Act, 1984.

THAT, in lieu of charging the municipality's actual costs in determining any cancellation price, the scale of costs as set out in Schedule "A" shall be charged as the reasonable costs of proceedings under the Act.

THAT this by-law shall come into force on the day of the final passing hereof.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
REEVE

\_\_\_\_\_  
CLERK

SAMPLE I

SCHEDULE "A"

to By-law No. \_\_\_\_\_

Scale of Costs

Where costs are paid:

1. Subsequent to the registration of the tax arrears certificate \$ \_\_\_\_\_
2. Subsequent to the registration of the first notice \$ \_\_\_\_\_
3. Subsequent to the entering into of an extension agreement \$ \_\_\_\_\_
4. Subsequent to the registration of the final notice
  - a) where there has been no extension agreement \$ \_\_\_\_\_
  - b) Where there has been an extension agreement \$ \_\_\_\_\_
5. Pursuant to the sale of land by public tender \$ \_\_\_\_\_
6. Pursuant to the sale of land by public auction \$ \_\_\_\_\_



SAMPLE 2

SCHEDULE "A"

to By-law No. \_\_\_\_\_

SCALE OF COSTS

Title searching	\$ _____
Survey	_____
Registration of tax arrears certificate	_____
Registration of statutory declaration	_____
Mailing first notice	_____
Mailing final notice	_____
Preparation of extension agreement	_____
Legal costs	_____
Registration of cancellation certificate	_____

Costs related to proceeding under tender process:

Advertising expenses	\$ _____
Expenses incurred for holding tender opening	_____
Mailing of notices	_____
Registration of documents	_____
Legal costs	_____
Distribution of proceeds of sale	_____

Costs related to proceeding under auction process:

Advertising expenses	\$ _____
Expenses incurred for holding auction	_____
Registration of documents	_____
Legal costs	_____
Distribution of proceeds of sale	_____

SAMPLE EXTENSION AGREEMENT

THE CORPORATION OF THE \_\_\_\_\_ OF \_\_\_\_\_

By-law No. \_\_\_\_\_

A by-law to authorize the execution of a tax arrears extension agreement pursuant to section 8 of the Municipal Tax Sales Act, 1984, S.O. 1984, c. 48.

**WHEREAS** the (municipality) has registered on the (date) a tax arrears certificate against the land described in Schedule "A" attached hereto and forming part of this by-law.

**AND WHEREAS** section 8 of the Municipal Tax Sales Act 1984 provides that a municipality may by by-law authorize an agreement with the owner of such land to extend the period of time in which the cancellation price payable on the land is to be paid,

**NOW THEREFORE**, the Council of the Corporation of the \_\_\_\_\_ of \_\_\_\_\_ ENACTS AS FOLLOWS:

**THAT** an agreement be entered into by the Corporation with \_\_\_\_\_, the Owner (or spouse of the owner) of the land described in Schedule "A" to extend the time period in which the cancellation price payable on this land is to be paid beyond (year-date) .

**THAT** the agreement be in substantially the same form and contain the same terms and conditions as set out in Schedule "B" attached hereto and forming part of this by-law.

**THAT** the (Head of Council) and Treasurer be authorized to enter into the agreement on behalf of the Corporation.

**AND THAT** this by-law becomes effective as of the date of the final passing hereof.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
REEVE

\_\_\_\_\_  
CLERK

SCHEDULE "A"

to By-law No. \_\_\_\_\_

Description of the Land:

SCHEDULE "B"

to By-law No. \_\_\_\_\_

THIS AGREEMENT made in triplicate the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 19\_\_\_\_, BETWEEN:

THE CORPORATION OF THE \_\_\_\_\_ OF \_\_\_\_\_  
Hereinafter called the "Corporation"

-and-

\_\_\_\_\_  
Owner (spouse of the owner) of the land

Hereinafter called the "Owner"

**WHEREAS** the Owner is the owner of the land in the (name of Municipality) described in Schedule "A" attached hereto and forming part of this Agreement.

**AND WHEREAS** the Owner's land is in arrears of taxes on the 31st day of December, 19\_\_ in the amount of \_\_\_\_\_ and a tax arrears certificate was registered in the Registry (or Land Titles) Office on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ in respect of the Owner's land.

**AND WHEREAS** under section 8 of the Municipal Tax Sales Act, 1984, S.O. 1984, c. 48, a municipality may by by-law, authorize an extension agreement be entered into by the Corporation with an Owner to extend the period of time in which the cancellation price in respect to the Owner's land is to be paid.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises and of the covenants and obligations hereinafter contained, it is hereby agreed as follows:

1. The Owner agrees to pay to the Corporation the sum of \_\_\_\_\_ dollars monthly, payable on the \_\_\_\_\_ day of each and every month commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to and including the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_
2. In addition to paying the amounts provided for in Clause 1, the Owner agrees to pay all taxes levied on the land as they become due during the tenor of this Agreement.
3. Notwithstanding any of the provisions of this Agreement, the Municipal Act, R.S.O. 1980, c. 302, as amended, shall continue to apply to the collection and enforcement of all tax arrears and all taxes except that the treasurer and the collector of taxes of the Corporation, without waiving the statutory rights and powers of the municipality or of the treasurer, shall not enforce collections of such tax payments, except as set out in clauses 1 and 2, during the time this Agreement is in force so long as the Owner is not in default hereunder.
4. In the event the Owner defaults in any payments required by this Agreement, this Agreement upon notice being given to the Owner by the Corporation, shall be terminated and the Owner shall be placed in the position he or she was before this Agreement was entered into. In the event of a default, this Agreement shall cease to be considered a subsisting agreement on the day that the notice of termination is sent to the Owner.
5. Immediately upon the Owner making all the payments required under paragraphs 1 and 2, this Agreement shall be terminated and, the Treasurer shall forthwith register a tax arrears cancellation certificate in respect of the said lands.
6. Notwithstanding the provisions of paragraphs 1 and 2, the Owner and any other person may at any time pay the balance of the cancellation price and upon receipt of the aforesaid payment by the Corporation, this Agreement shall terminate and the treasurer shall forthwith register a tax arrears cancellation certificate.

7. This Agreement shall extend to and be binding upon and ensure to the benefit of the Parties and to their respective heirs, successors and assigns.
8. If any paragraph or part of paragraphs in this Agreement be illegal or unenforceable, it or they shall be considered separate and severable from the Agreement and the remaining provisions of the Agreement shall remain in force and effect and shall be binding upon the Parties hereto as though the said paragraph or paragraphs or part or parts of paragraphs had never been included.
9. Any notice required to be given to the Owner hereunder shall be sufficiently given if sent by registered post to the Owner at the following address:

In WITNESS WHEREOF the Owner has hereunto set his hand and seal and the Corporation has caused its Corporate Seal to be hereunto affixed, attested by its proper officers.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCES OF

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of the Corporation

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of the Corporation

\_\_\_\_\_  
Witness

\_\_\_\_\_  
OWNER



SCHEDULE "A"

TO THE AGREEMENT

Description of the Land:

SAMPLE COUNTY AGREEMENT

This Agreement made in duplicate this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 198 \_\_\_\_.

BETWEEN:

The Corporation of the County  
of \_\_\_\_\_ hereinafter  
referred to as the "County",

OF THE FIRST PART

AND:

The Corporation of the \_\_\_\_\_  
of \_\_\_\_\_ hereinafter  
referred to as the the "Municipality"

OF THE SECOND PART

**WHEREAS** Section 17 of the Municipal Tax Sales Act, 1984 provides that the Council of a County may by by-law authorize an agreement be entered into by the council with any local municipality within the county to authorize the county treasurer to perform the duties of the treasurer of the municipality under the Act in respect of land within the local municipality;

**AND WHEREAS** by By-law No. \_\_\_\_\_, 19\_\_\_\_, the Council of the Corporation of the County of \_\_\_\_\_ has authorized and directed its appropriate officers to enter into this Agreement: .

**NOW THEREFORE** the Parties hereto agree that in consideration of the above and the mutual covenants hereinafter agreed to, the Parties hereto agree as follows:

I. In this Agreement:

(a) "Act" means the Municipal Tax Sales Act, 1984, S.O. 1984, c.48.

(b) "County Treasurer" means the Treasurer of the County of \_\_\_\_\_,

(c) "Municipal Treasurer" means the Treasurer of the \_\_\_\_\_ of \_\_\_\_\_,

2. The County Treasurer shall perform the duties of a treasurer under the Act in respect of land within the local municipality.
3. The County Treasurer shall also perform all the duties of the Municipal Treasurer in relation to the collection of tax arrears.
4. The Municipal Treasurer shall make every reasonable attempt to collect the current taxes owing to the municipality.
5. A list showing the lands that are in arrears of taxes and a statement of the amounts owing to each parcel of land shall be submitted by the Municipal Treasurer to the County Treasurer as soon as possible after (January 1) of each year in which current taxes become tax arrears, but no later than (April 1st) of that year, on the forms to be supplied by the County.
6. The Municipal Treasurer shall be responsible for the completeness and accuracy of the information provided to the County Treasurer in accordance with paragraph 5.
7. For those lands submitted in accordance with paragraph 5, the Municipal Treasurer shall advise the County Treasurer of current taxes and penalties and any other changes under the Act which may become due prior to a sale of such lands, in a format suitable to the County Treasurer.
8. The Municipal Treasurer shall also provide the County Treasurer with such information and assistance as is needed by the County Treasurer to exercise the powers and duties of a treasurer under the Act.

9. When land located within the Municipality is advertised for sale by the County Treasurer, the County Treasurer shall send a copy of the advertisement to the Municipal Treasurer for the information of the council of the Municipality.
10. Where there is no successful purchaser at a public sale of land within the Municipality, the County Treasurer shall prepare and register, in the name of the Municipality, a notice of vesting in the prescribed form, and all costs incurred by the County Treasurer under this section shall be paid by the Municipality.
11. Where there is a sale of land, the County shall be paid that portion of the cancellation price that reflects the reasonable costs incurred by the county, which costs shall be the actual costs incurred in administering the procedures required under this Agreement and the Act or where a scale of costs has been established by by-law of the County, in accordance with such scale of costs.
12. Within 30 days of the date of a sale, the County Treasurer shall pay to the Municipality out of the cancellation price, the amount owing to the Municipality for current taxes, tax arrears and penalties and interest thereon.
13. The County Treasurer shall pay the proceeds of a sale, minus the cancellation price to the District Court within 30 days of the date of the sale and shall notify the Municipality of the date of the payment into court , and the land to which the payment pertains.
14. Where no person makes an application under section 10 of the Act within the one-year period after any proceeds of sale is paid into court, the County Treasurer shall forthwith upon the expiry of the one-year period, apply to the District Court for payment out of court of the amount paid in and upon receipt of such amounts the County Treasurer shall forthwith forward the amount to the Municipality.
15. Only the Council of the County may by by-law fix a scale of costs under section 15 of the Act.

16. Only the Council of the County may, in accordance with section 8 of the Act, authorize by by-law an extension agreement with the owner of land against which a tax arrears certificate has been registered.

17. The Council of the County or the Council of the Municipality may by by-law cancel at any time this Agreement.

18. The council that passes a by-law to cancel this Agreement shall give notice to the other council and shall send a certified copy of the said by-law by registered mail to the treasurer of the other municipality no later than one month prior to (January 1) of the year the cancellation is to be effective.

19. This Agreement shall come into force and take effect on \_\_\_\_\_  
\_\_\_\_\_.

In WITNESS WHEREOF the Corporation of the County of \_\_\_\_\_  
and the Corporation of the \_\_\_\_\_ of \_\_\_\_\_  
have caused their Corporate Seals to be hereunto affixed, attested by  
their proper officers.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCES OF

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of the County

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Clerk of the County

\_\_\_\_\_  
Witness

\_\_\_\_\_  
On behalf of the Municipality

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Clerk of the Municipality

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